Is there a Left-Wing Case for Rejecting the EU Constitution?
Matthew McGregor

Bill Cash, mp • Marc Glendening • Dirk van Heck
John Massey • Sara Rainwater • Roger Helmer, MEP
Matthew Attwood • Freddie Gjertsen
Samantha Elrick • Dr Lee Rotherham
Rotten Parchment Bonds

by Bill Cash, MP

“England, bound in with the triumphant sea,
... is now bound in with shame,
With inky blots; and rotten parchment bonds;
That England, that was wont to conquer others,
Hath made a shameful conquest of itself.”

John of Gaunt – Richard II

Within seconds of the vote on the Bill itself being declared I put down, in my own name, 230 amendments to the Bill in its implementation of the Treaty. The Treaty was a prerogative act by the Government today no less significant in its denial of our democracy and the role of our voters in General Elections to choose their laws and their government than at any time as it has evolved since the time of the Stuarts when Charles II signed the secret Treaty of Dover in 1670 with France. The object was to bypass the English Parliament in a deal with Louis XIV of France in return for his political and financial support so long as Charles did not recall Parliament. Eventually all this led to the throwing out of Charles’s successor, James II, the Glorious Revolution, the Bill of Rights, the assertion of Parliamentary rule and the evolution of our present day democratic system of government.

This is not historical pedantry. This is about what the people of this country have fought and died for for centuries, as I stated in the six minutes I was allowed to speak, only thanks to the ruling of the Deputy Speaker, Sir Michael Lord, who imposed a last minute insistence that the division list was provided to me. I had intended to discuss (in which I insisted that the Party itself had to take a stand by calling a Referendum) the need for a Referendum, given that the Bill included one.

The Ayes 345, Noes 130. The House of Commons thus voted on the Second Reading of the European Union Bill to consign the United Kingdom, in principle and in fact, to subordinate itself to the primacy of the European Union – unless Parliament as a whole, including the House of Lords, refuses to enact the Bill. An act of folly and worse, driven by the combined votes of the Labour Government, the Lib Dems, and the Scottish National Party. Careful examination of the division list is recommended to identify notable absences and Tory supporters of the Bill.

I had tabled a Reasoned Amendment on the previous Thursday, supported by a number of stalwart Conservative backbenchers. This was followed by a similar Reasoned Amendment tabled by Michael Howard and the Conservative Party as the Official Opposition, and on which the House divided as follows – Ayes 131, Noes 348. The decision by the Conservative Party to vote against the main question was fraught with some uncertainty to begin with but, following some ‘discussions’ (in which I insisted that the Party itself had to take a stand by calling a division and, if it did not, some of us would do so in any event) went the right way. None of all this, of course, was reported in the media and the vast implications of the debate itself for the future of the United Kingdom were barely mentioned. Such is the nature of present day dumbed down politics – no wonder that turnout is now so low despite the impact on our democracy and the right of the voters to decide how they are to be governed and by what laws.

The fact remains that the Conservative Party ultimately did the right thing and the Labour and Lib Dems did the wrong thing.

What needs to be pointed out is that, as I indicated in my intervention on Kenneth Clarke, with his misguided but honest candour, who spoke in favour of the European Constitution and against the Referendum, that, if the Bill was defeated, there would be no need for a Referendum, given that the Bill included one.

T he Ayes 345, Noes 130. The House of Commons thus voted on the Second Reading of the European Union Bill to consign the United Kingdom, in principle and in fact, to subordinate itself to the primacy of the European Union – unless Parliament as a whole, including the House of Lords, refuses to enact the Bill. An act of folly and worse, driven by the combined votes of the Labour Government, the Lib Dems, and the Scottish National Party. Careful examination of the division list is recommended to identify notable absences and Tory supporters of the Bill.

I had tabled a Reasoned Amendment on the previous Thursday, supported by a number of stalwart Conservative backbenchers. This was followed by a similar Reasoned Amendment tabled by Michael Howard and the Conservative Party as the Official Opposition, and on which the House divided as follows – Ayes 131, Noes 348. The decision by the Conservative Party to vote against the main question was fraught with some uncertainty to begin with but, following some ‘discussions’ (in which I insisted that the Party itself had to take a stand by calling a division and, if it did not, some of us would do so in any event) went the right way. None of all this, of course, was reported in the media and the vast implications of the debate itself for the future of the United Kingdom were barely mentioned. Such is the nature of present day dumbed down politics – no wonder that turnout is now so low despite the impact on our democracy and the right of the voters to decide how they are to be governed and by what laws.

The fact remains that the Conservative Party ultimately did the right thing and the Labour and Lib Dems did the wrong thing.

What needs to be pointed out is that, as I indicated in my intervention on Kenneth Clarke, with his misguided but honest candour, who spoke in favour of the European Constitution and against the Referendum, that, if the Bill was defeated, there would be no need for a Referendum, given that the Bill included one.

Within seconds of the vote on the Bill itself being declared I put down, in my own name, 230 amendments to the Bill in its implementation of the Treaty. The Treaty was a prerogative act by the Government today no less significant in its denial of our democracy and the role of our voters in General Elections to choose their laws and their government than at any time as it has evolved since the time of the Stuarts when Charles II signed the secret Treaty of Dover in 1670 with France. The object was to bypass the English Parliament in a deal with Louis XIV of France in return for his political and financial support so long as Charles did not recall Parliament. Eventually all this led to the throwing out of Charles’s successor, James II, the Glorious Revolution, the Bill of Rights, the assertion of Parliamentary rule and the evolution of our present day democratic system of government.

This is not historical pedantry. This is about what the people of this country have fought and died for for centuries, as I stated in the six minutes I was allowed to speak, only thanks to the ruling of the Deputy Speaker, Sir Michael Lord, who imposed a last minute insistence that the original allocated ten minutes for speeches be cut down to six minutes (see Hansard 9 February 2005 below).

Apart from the point-by-point repudiation of the European Union Treaty in all its essentials and principles, my amendments to the European Union Bill crucially and specifically include the following.

Firstly, a Supremacy of Parliament clause (see below). This provides, in a nutshell, that if the UK Parliament so decides, as a Sovereign Parliament and as a matter of political will (notwithstanding the European Communities Act 1972 and any European Treaties or laws passed since then) clearly to legislate on behalf of the voters as it wishes, then the judges of the UK must give effect to those latest laws (in line with the judgements of Lord Denning [Macarthys -v- Smith] and Lord Justice Laws in the Metric Martyrs case). These latest laws must include the European Union Act if there is a ‘No’ vote but, astonishingly, Jack Straw stated to me in the European Scrutiny Committee that, in the event of a ‘No’ vote, it would be a “waste of time” to repeal the Act (8 February 2005).

This Supremacy of Parliament clause is the answer I gave, and repeat in my amendment, to Tony Blair and Jack Straw when Jack Straw asserted in November 2003 (when I was Shadow Attorney General) that international treaties take precedence over national laws and which I and Richard Shepherd immediately repudiated. I followed this up with correspondence and questions over the next 18 months. Eventually Jack Straw conceded my repudiations of their assertions (Hansard 9 September 2004, see below).

Similarly Tony Blair, in reply to my question regarding the fact that the Treaty revoked all previous treaties, could not reply as to how he would act if there was a ‘No’ vote (Hansard 20 December 2004, see below).

Apart from the unacceptable declaration in the Treaty – “The Conference notes that Article 1-6 reflects existing case law in the Court of Justice…” – there has been a further development. In the Second Reading debate, Jack Straw made dangerous assertions regarding Article 27 of the Vienna Convention on the Law of Treaties as respects the issue of primacy of European Treaties and law (see below), wholly avoiding the fact that the primacy issue derives entirely from the European Communities Act 1972 now fatally enlarged to include functions of European Government. Hence my reply in my own speech (Hansard 9 February 2005, see below). Under UK law as Lord Templeman stated in Rayner v. DTI (1988), “Except to the extent that a treaty becomes incorporated into the laws of the United Kingdom by statute, the courts of the United Kingdom have no power to enforce treaty rights and obligations at the behest of a sovereign government or at the behest of a private individual.” Furthermore, Lord Diplock made clear in the Salomon case in 1967 that, “The sovereign power of the Queen and Parliament extends to breaking treaties” where subsequent domestic legislation is clear and unambiguous.

Secondly, I have tabled another amendment so that if there is a ‘No’ vote in the Referendum, the then Government will be obliged to propose to an Intergovernmental Conference of the European Union amendments to the European Union Treaties which take them back to trade and political cooperation no more integrated than the Single European Act. This is less integrated than the
European Economic Area proposed by Veritas. My amendment would unravel European Government established through the Treaties of Maastricht, Amsterdam (negotiated under John Major and then Tony Blair – who signed Amsterdam) and Nice, under Tony Blair as well.

Thirdly, another amendment so that, following a 'No' vote, the then Government will be obliged to introduce a Bill to give effect to the above. If the European Union refused to listen and act accordingly, we, having seriously and with determination, threatened to withdraw, we would then steer our own course.

This would be a practical and responsible course of action – not the irresponsible policy proposed by UKIP which is based on unconditional withdrawal. A vote for UKIP in many constituencies will simply let in the pro-Constitution Lib Dems and Labour – mutually assured destruction.

My amendments would also be consistent with repudiation not only with European Government, but also with repudiating the failure of the European Union in its pursuit of a low growth, high unemployment, failing economy and its over-regulation and unrealistic foreign and defence policies – not to mention its undemocratic political structure gravitating towards a centralised authoritarian inner core Europe inimical to British vital national interests.

Hansard, 9 February 2005

Mr. Straw: ... The primacy of obligations laid out in international treaties arises in principle not from the treaty or previous EU treaties but from article 27 of the Vienna convention on the law of treaties. I urge hon. Members on both sides of the House to consider this: if a country entered into solemn treaty obligations but could then ignore them, there would never be any point in agreeing international treaties. Some countries have to incorporate every single part of international treaties directly into their domestic law – that is the case in the United States – but other countries, including the United Kingdom, take a dualist approach. The issue of primacy is present in international obligations. It was present when we joined the European Union, and it was at the heart of the argument during the 1975 referendum campaign. The position has not changed, and as one of the first articles in the treaty makes clear, European law, in respect of European competences but nothing else, has primacy. It is made clear that that is simply a restatement of the existing jurisprudence of the European Court of Justice.

Bill Cash is Conservative MP for Stone and Chairman of the European Foundation.

Amendments to the European Union Bill tabled by Bill Cash, MP, on 9 February 2005

To move the following Clause:

'(1) (a) Notwithstanding the 1972 Act, or any enactment amending that Act, nothing in this Act shall be construed as overriding paragraphs (b) and (c) of this subsection,

(b) Community treaties, Community instruments and Community obligations shall be given effect in the United Kingdom only insofar as they do not conflict with an enactment to which paragraph (c) applies,

(c) This paragraph applies to an enactment which includes the words "The provisions of this enactment shall take effect notwithstanding the provisions of the 1972 Act".

(2) (a) Notwithstanding the Human Rights Act 1998 (c. 42), or any enactment amending that Act, nothing in this Act shall be construed as overriding paragraphs (b) and (c) of this subsection,

(b) The European Convention on Human Rights shall be given effect in the United Kingdom only insofar as it does not conflict with an enactment which paragraph (c) applies,

(c) This paragraph applies to any enactment which includes the words: "The provisions of this enactment shall take effect notwithstanding the provisions of the Human Rights Act 1998."

(3) Nothing in the 1972 Act or the Human Rights Act 1998 or any enactment amending either of those Acts, including this Act, shall be construed in any way as to fetter, touch or qualify the sovereignty of the United Kingdom Parliament to amend or repeal the 1972 Act or the Human Rights Act 1998 or any enactment amending either Act, including this Act.'
the debate, albeit at a somewhat late hour and with just six minutes to run. I am glad to see that the reasoned amendment that we shall vote on this evening bears fair comparison to the one that I tabled a few days ago. I am equally glad that the issue of supremacy, extensively discussed today, relates closely to the decision taken last week by my party to support a proposition that I tabled in an amendment to the Constitutional Reform Bill.

The problem with the constitution, as I have said many times before, is the question of primacy. I do not need to repeat the argument today, as I have already explained it in my own terms over and over again. The plain fact is that the Foreign Secretary is blatantly wrong about the effect of the constitution on the United Kingdom. He mentioned the Vienna treaty, particularly article 27, but it is inconceivable that the people of this country could be governed on the basis of a decision taken by a treaty.

I return to what the Foreign Secretary said about 18 months ago – that international treaties took precedence over national laws. That led to an exchange of correspondence, and a series of questions, between myself and him. At the end of that 18-month period, on 8 or 9 September last year, he effectively conceded in a debate that it was true that statute took precedence over treaty – as, indeed, Lord Diplock had made absolutely clear in an important case in 1967. It is good law.

The way in which the Foreign Secretary replied to me yesterday in the European Scrutiny Committee is also inconceivable. I put it to him that the treaty could receive a no vote when the referendum is called and I asked him whether, if that happened, he would repeal the legislation that is being pushed through Parliament now because of the massive majority. He said that he would not repeal it, and then said – twice – that to do so would be a waste of time.

What arrogance. The Foreign Secretary would not repeal this legislation, even though it had been rejected by the British people. He relies on his prerogative powers to tell the country what laws will govern it and the extent to which Parliament will be governed by the new EU constitution.

The hon. Member for Wantage (Mr. Jackson) suggested that this treaty was just one in a series. That is arrant nonsense. Article 1.6 of the treaty states clearly that the EU constitution will take precedence over the laws of member states. When I put it to the Foreign Secretary that that precedence also included this country’s constitution, he said that of course it did.

On the question of European Court of Justice case law, the treaty makes it clear that article 1.6 reflects the Court of Justice’s existing status in that respect, and of course it does. Yesterday, I discussed with the Foreign Secretary the matter of the competing jurisdictions that flow from the European Communities Act 1972. Evidence from distinguished academics on constitutional law makes it clear that our judges are duty bound to give effect to decisions made by the House of Commons on behalf of the British people. However, the European Court maintains that existing case law – such as Enel v. Costa, or the Simmenthal verdict – means that it has the right to decide questions of law in this country.

The fundamental question is one of political will. Who governs this country? People have fought and died over that question.

The Bill should be rejected. The referendum should be the subject of a separate Bill so that we can ensure that this country is governed by legislation passed by this House, whose composition is determined by the will of the British people as expressed in general elections.


Mr. William Cash (Stone) (Con): The Prime Minister may have seen a recent poll which showed that 18 to 24-year-olds and 65 per cent. of the Scottish voters have said that they would like to move to associate status. In relation to the question of renegotiation, which he has just raised with the Leader of the Opposition, does he deny that it is open to Parliament to legislate inconsistently, if necessary, with the European Communities Act 1972 itself, or indeed with rulings of the Court or with treaties or other laws of the acquis communautaire?

Does the Prime Minister therefore understand that if there is a no vote in the referendum, which he has promised, he himself will be faced with renegotiation? What will he do if there is a no vote?

The Prime Minister: I will, of course, accept the verdict of the people. When the hon. Gentleman talks of associate status, he is talking of his desire to get to associate status. That is at least an honest position for the Conservative party to take, as it is the effect of what it is saying. Whatever the Front Bench wants to do to try to walk around the issue, to try to keep together the two bits of the Conservative party, the fact is that we wanted to renegotiate the terms of membership, there is no doubt – this is not about renegotiating the EU constitution but about renegotiating existing terms of membership – that that would end up either with this country being utterly humiliated and having to accept that we could not do it, or, I agree, with us headed for associate status. He says that that is what people in this country would want. Well, he can adopt that position, but I am afraid that I would be prepared to challenge it. If people do think that, it is right that we should stand up and say that European Union membership, and being part of the European Union, is good for this country, our business, our trade, British jobs and British influence in the world. We will get to the debate, which we will have in the course of the referendum on the constitution, but at least he is adopting an honest position: that he sees a no vote in the constitution referendum as the first step towards associate membership, which means “out of Europe”.

HANSARD, 9 SEPTEMBER 2004

Mr. Cash: I am grateful to the Foreign Secretary. On primacy, he is of course referring to article 1-5(a). I note that the word ‘constitution’ was eliminated from the previous text. The text now makes it clear that “the Constitution and law adopted by the Union’s institutions in exercising competencies conferred on it, shall have primacy over the law of the Member States”.

Does the Foreign Secretary deny that the expression “the law of the Member States” includes the constitution of the United Kingdom?

Mr. Straw: Of course it does, in so far as laws of this Parliament lay down our constitution; but part of our constitution—like the primacy of Parliament itself—is not laid down by any law of the constitution. Because we are a sovereign nation, Parliament itself will have the final right to decide, at any stage, whether it wishes to remain a member of this treaty-based organisation. If the hon. Gentleman wants to persuade his party to propose that we leave the European Union as a whole, he is entitled to do so; and under the new constitution, there is good provision through which countries will be able to leave the EU.

All extracts from Hansard © Parliamentary Copyright, 2004/2005
Is there a Left-wing Case for Rejecting the EU Constitution?

by Matthew McGregor

The Centre for a Social Europe is a campaigning think tank aimed at filling a gap in British and European politics. We support Britain’s membership of the European Union, but we have many critical things to say about how the EU is run and the direction in which it seems to be travelling ideologically. We believe that the EU needs to be reformed so it can play a useful role in delivering an agenda of social and economic justice for the many, not the few.

The European Constitution is the biggest issue facing both the Left and the Right in Europe today. It is being judged on two main levels: whether the text makes any of the failing policies of the EU better; and whether the text makes any of the existing policies any worse. In both areas the answer is that this Constitution is a step backwards for the Left. This is why we believe there is a centre-left case for rejecting the EU Constitution. People on either side of the debate may not agree with it, but there is a coherent case for rejection – one that is based in the principles of social democracy. Given that the polls show that a majority of Labour voters, Lib Dem voters and Trade Union members plan to vote ‘No’ in a referendum, we are confident that our approach has widespread support on the centre-left.

Failing to reform failing policies

The Constitution fails to reform the key areas of EU policy that are failing most. For instance, most people in Britain agree that the Common Agricultural Policy is damaging to the interests of farmers in the developing world. We all know the facts: EU cows subsidised to the tune of $2 per cow per day; the richest 22 landlords in Britain receiving £879 each and every day in subsidies; a family of four pay £800 more in grocery bills than they otherwise would, while farming communities in the south of the world suffer. Oxfam recently said, “Within the EU itself, the choice is between developing public policies which address the challenges of improving social equity, environmental sustainability, and consumer welfare, or maintaining a system which directs government finances towards powerful financial interests.” By locking in a Common Agricultural Policy that is far from reformed, the EU has chosen the latter.

The EU’s regional aid must also work more efficiently and, again, the Constitution fails to recognise the inadequacy that currently exists in this area. There are sets of overlapping bureaucracy that lead to waste and inefficiency, while taking decisions far from the people that really count. The EU should be pleased with the way aid has worked in the past but it is time for reform. Gordon Brown has rightly called for regional aid to be returned to national control. He said, “When the economic and social, as well as democratic, arguments on structural funds now and for the future so clearly favour subsidiarity in action, there is no better place to start than by bringing regional policy back to Britain.” His tone is more Eurosceptic than we are, but his sentiments are right. That makes it all the more strange that the Government would agree to lock in regional policy within the framework so strongly criticised by the Chancellor.

There are other issues that need urgent attention: the focus on price stability instead of creating jobs; the retention of the damaging Common Fisheries Policy; and the continued lack of transparency in institutions to name a few. There is not space in this article to go into these areas in
detail, but the fact that failing policies have not been tackled is clear.

Extending failing policies for the EU

Some would say that the fact that the Constitution has overlooked so many of the EU’s failing policies is enough for the Left to say ‘No’ in a referendum. However, there is more to the problem. The Constitution also extends certain policies that we believe have proved damaging.

Trade policy is an area where the Constitution fails to reform. In fact the Constitution removes the last aspects of involvement from national parliaments, taking control of trade policy in the EU even further away from ordinary people. The proposed changes to trade policy in the Constitution remove the last de facto exceptions from EU competence over common trade policy. These areas – education, health and audiovisual and cultural services – are areas of particular concern to trades unions and the Left. We are worried that the Commission will be given the power to negotiate away protection of public services from unfair private competition. NGOs and the Left have been against the Global Agreement on Trade in Services because there is a strong likelihood that it will lead to backdoor privatisation in these sectors. The Trade Justice Movement has resisted that move, but the new powers contained in the Constitution bypass that opposition. Many people say that either this level of competition from the private sector is good, or that privatisation and liberalisation will not take place. I can understand the former argument – but since I am not on the neo-liberal right of politics, I do not accept it. On the latter argument – why give the power away if it does not need to be used?

Despite the failure of the EU to come to an agreement on key foreign policies – with a majority of EU states favouring the invasion and occupation of Iraq, and a powerful, vocal minority opposed to that invasion – the Constitution lays the ground for an enhanced Common Foreign Policy. The reality is that while we see the EU as a primary vehicle for acting internationally, it must not and cannot be the only vehicle if we are to truly act in the manner social democrats believe is necessary. This is a particular issue of concern to smaller countries in the Union. When EU institutions represent the Union at international bodies, the smaller states are not effectively represented, and in a way, an empty chair approach is imposed on them. This weakens the ability of social democrats to support international solidarity and international justice. That is not acceptable when we have such divergent approaches to international politics within member states as well as between them. The whole attitude of building a powerful EU to confront the US is not only counter-productive, it is reactionary and dangerous.

Social democrats believe that an explicit goal of governments should be to pursue peace in the world. Many of the labour movements in Europe were created during tumultuous periods in which workers came together with liberals to work for peace. Labour movements in France, Germany, the Nordic countries, Malta and Britain, to name a few, have long histories of active work for peace. That a Labour government could agree to sign a Constitution which goes against this spirit of solidarity, tolerance and respect in its quest for a stronger, bigger military in the EU would be shocking, if perhaps we did not live in such strange times. The proposed Constitution extends the role of the EU in the defence, security and military sphere. We do not feel that a Constitution for the EU should do this. The Constitution also proposes the creation of a European Armaments, Research and Military Capabilities Agency. Geoff Hoon is on record as saying that this Agency will promote and develop new military hardware. Security analysts are on record suggesting the Constitution will create pressure for higher military spending. The respected Campaign Against the Arms Trade, a coalition of Christian groups, has called the move “disturbing” and has said the inclusion is "deeply disappointing". On top of this, the extension of the Petersburg tasks creates a concerning number of issues. The Constitution says, “All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.” Whatever your views on the ‘war on terror’, this is clearly a major, permanent extension of EU military objectives, which justifiably concerns many people on the Left.

Lastly, the EU will have a Common Asylum Policy. Many people on the left have had concerns about the asylum policy of the current Government. We are concerned that we are not meeting our obligations to people in fear of their lives. Of course, we need an orderly system of asylum and of migration. However, we are now concerned that the Common Asylum Policy, as set out in the Constitution, will make the policies of many member states and of the EU significantly more regressive as the buck is passed in a humanitarian race to the bottom. The proposal to create ‘out of area’ reception camps for asylum seekers attempting to seek refuge in the EU is totally unacceptable. A similar proposal last year was blocked by Sweden. Under the terms of the EU Constitution, Sweden could be outvoted and forced to accept a policy which is totally anathema to voters there. A recent report from Amnesty International and others said, “[We are] concerned about the risk of a drop in standards in some Member States as regards the protection of asylum seekers and refugees which this [plan] could entail.” I think most people on the Left in this country and others would agree.

The EU is going in the wrong direction

The Constitution debate is different to the debate won by the ‘No’ side over the issue of early membership of the single currency. The debate over the Constitution is a debate about what type of EU we wish to see. On the Left, we are not particularly interested in a debate over ‘if Europe’, but we are focused on the debate of ‘what Europe’.

The Centre for a Social Europe believes that the European Union is travelling in the wrong direction. We want to stop that slide and to argue for the EU to get back to helping provide a basis in which social democracy can flourish. Some people argue that it is improper for people who favour our continued membership of the EU to criticise anything it does. That is wrong. If I criticise the scope or policies of my local council, it doesn’t automatically follow that I wish for my council to be abolished or for my street to be removed from the council’s jurisdiction. It is time for the debate to move beyond those on one side who say ‘yes’ to every proposal from the EU, and those on another side who wish to wreck the entire project.

Many on the Left argue that we should leave the WTO and the IMF. Some people argue that we should leave the EU. I don’t agree. The European Union as a project is in principle right. We should co-operate with countries around us. As with the WTO and IMF, we should not leave the European Union, we should stay to push for our reform agenda. International bodies can act as forces for good. But the EU is not
The EU should act as an enabler rather than a policy maker. It should be an inclusive decision-making partner to the countries it represents. The social aspects of the EU have been forgotten in the rush towards 'modernising' the economies of Europe. There is now a clear intent to ensure that the first in line for the sacrifice in the face of global competition is social protection in the form of labour security and welfare states. This race to the bottom does not make the EU more dynamic or efficient, but it does attack the poorest and the most vulnerable in society. In the late 1980s, the Labour Party and the TUC rightly changed their misguided policy of withdrawal from the European Community. The movement was persuaded because then President of the European Commission, Jacques Delors, put social protection at the heart of what Europe is about. Unless that centrality is reinforced, support will continue to slip.

We are worried that the new Commission will not live up to that goal of making Europe an example of how social democracy can work. If anything, the new Commission will take the EU further down the wrong road. This Commission has a lower proportion of social democrats than ever before. Just six of the 25 Commissioners are from parties affiliated to the socialist international – and one of the six is Peter Mandelson. Hardly a ringing endorsement for the future of social democracy in Europe.

Reform must be based on a two way process between the EU and its citizens. The fact that so many people in this country, and in other countries in the EU, have tried so hard to stop us from having a referendum over the proposed Constitution shows that a change of mindset needs to take place. Voters – particularly young people – will not accept being told that crucial issues are too complicated for them to have a say on. People who have tried to block a referendum need to take a long hard look at that stance and ask themselves whether it has helped the EU reconnect with voters or helped reinforce the impression of distance. Actions and words following referendums speak clearly about some politicians' view of voters' roles in the development of the EU too. Expressions of regret after the Danish and Swedish 'No' votes on the euro, the re-run of the Irish 'No' vote on Nice and Peter Mandelson's decision to imply a re-run of a referendum here in the event of a 'No' vote do not bode well for the future.

The EU should act as an enabler rather than attempting to impose the wrong economic solutions. Obviously there is a role for the European Union as a forum for discussion of economic issues, and as the basis of a single market of trade in goods and services. But should the EU really be recommending levels of public spending cuts to Member States? And should a Constitution lock in a particular model of economic practice? This is an issue that is of particular concern to the French Left. Henri Emmanuelli, a former leader of the French socialist party said, "The text [of the Constitution] is a catastrophe. It tries to set an economic system in stone – which has never been in a Constitution before. It is completely opposed to the socialist project." At the TUC congress in September 2004, Kevin Curran said, "the EU directive on transport and public services encourages privatisation and, of course, it must be vigorously opposed." It is no wonder that last year's Congress failed to even discuss supporting the proposed Constitution.

More generally, the Constitution is disappointing because it is another move away from the Europe we had, and want – the Europe of consensus and agreement. The Constitution takes us towards a Europe where decisions are taken by people being outvoted and pressured. The Constitution would reduce Britain's ability to block legislation by 30 per cent and it would end the national right of veto in 63 new areas, including some very controversial areas. Do any of us really think that a country should be in a position where it can be overruled on its asylum policy?

Gisela Stewart, the Labour MP who represented Britain on the Convention on the future of Europe, said in her pamphlet for the Fabian Society, "It is time that those of us who want the European Union to survive into the 21st century faced up to the real challenges ahead. The world has changed since 1957 and the EU had better change too."

'No' campaigning across Europe

In every country in Europe I visit, when I represent my Trade Union, or on a Party visit or for work, I meet many other trade unionists and social democrats. All of them, without exception, say, "We didn't know social democrats in the rest of Europe had the concerns we have". There is a concerted effort by some in politics in the EU to give the impression that only the Left in country x or country y has concerns about the direction of the EU.

I think it is worth looking at the discussion in other European countries in some detail because it is important in terms of the Left's intellectual discussion internally, and for the referendum campaign when it comes.

In Sweden, the Left formed the core of the 'No' campaign, which won an emphatic victory in the euro referendum last year. Despite strong campaigning by the leadership of the social democrats on the 'Yes' side, social democrat voters and trade union members voted 'No' by a wide margin. This year, the highest placed sceptic on the social democrat party list in the Euro-elections was at 31. But a grass-roots campaign pushed Anna Hedh up the list when voters turned out to back her individually and she is now an MEP.

In Denmark, the country has consistently opposed deeper political integration in the EU, most notably when they rejected membership of the euro in 2000. It is no surprise that a majority of social democrats and trade unionists rejected euro membership; they know it will damage their ability to protect and enhance their social protection.

In France, nobody is saying to Laurent Fabius, a former socialist Prime Minister, or Henri Emmanuelli, a former party leader – do you think there is a Left case for rejecting the Constitution? French socialists know what centre-left economics look like, and they do not see them in the Constitution. The list of Socialist MPs queuing up to attack the Constitution is pretty staggering. For example, former Minister Jean-Pierre Masseret said recently that, "This treaty is incompatible with socialism."

In the Netherlands, concern about the Constitution has led to the country's first ever referendum. There, the social party is building opposition to the Constitution, along with Unions, the Greens and many in the Labour Party. As its Europe spokes-person, Harry van Bommel, says, the Constitution is "a political manifesto of neo-liberal design which does nothing to make Europe more democratic or to bring the EU closer to the people".

I could go on to describe why social democrats in Austria, Malta, Poland and Finland are against this Constitution but I hope you have already got the idea. The Left across Europe does not want this Constitution. When a colleague of mine spoke to a colleague from the French socialist youth at the European Social Forum, he said that they had voted for Maastricht because they thought once there was a European entity, a social and political
entity would follow. French socialists feel let down, and that is why, although the Party has backed the Constitution, so many socialist voters plan to vote 'No'. Those on the Left who oppose this Constitution agree that it is a political manifesto for a set of economic and social values we stand against.

Why we make the case for a 'No' vote

The European Left does have a political case for rejecting the Constitution based on fears that the text as it stands weakens our ability to build social democracy in Europe and beyond, but there is a more specific case in the UK.

There is one last argument of the debate, usually emanating from the more pro-Brussels camps, which must be examined. Some people suggest that more power needs to be transferred to Brussels because of the enlargement of the EU. Their argument suggests that in an enlarged European Union, unanimity is no longer possible in many areas and that giving countries the power to block proposals that run counter to their national interests or the views of their electorate would cause log-jam and chaos. I do feel there is a case for that argument, but the people making that case have to explain how Göran Persson will explain to voters in Sweden why the EU will setting up out of area reception camps against the overwhelming wishes of voters in Sweden. And how will politicians in the Netherlands explain to voters there if further public services liberalisation takes place against their wishes? More and more decision-making by Majority Voting is not a sensible course of action, nor is it sustainable.

The Left believe that the goals we seek – social justice, equality and a society in which people live in a spirit of solidarity – are attainable and easiest when power is closest to the people. Social democrats must be able to mould, shape and help direct economic development in order to distribute resources in an equitable way while maintaining levels of growth that will protect and enhance the public services of the community. When we are not in control of our economy, we begin to lose control of the direction in which our community develops. That is why the centralisation inherent in the Constitution and the development of the EU in recent years runs against the grain of social democracy in the UK. We don’t accept that the nation-state is no longer the main arena in which politics takes place. We don’t accept that our communities are powerless to determine their own futures. Of course, co-operation across borders is necessary, which is why the EU has a vital role to play in promoting our agenda. But decisions should not be taken in meeting rooms by people who are connected to the voter via a politician, who was elected by a politician, who was put in place by patronage, and who is briefed by a civil servant, who was briefed by a lobbyist. This is not accountable politics. Power should be exercised in arenas that are closest to democracy. At the moment that means power should be exercised by governments and local communities, not centrally by politicians at the EU level. Of course, there are arguments against this thesis, and I do not pretend that this view is the only view on the Left. Some politicians have made coherent and eloquent cases against it and I respect their strongly held views in the same way I hope they respect our case.

However, there is a strong centre-left case for rejecting the Constitution, and it is a case being put with strength and clarity in this country, and in other countries in Europe. A 'No' vote does not mean the EU will change overnight, and it does not mean we can make the EU a social democratic paradise. But it will block the regressive policies being proposed. It will give us a chance to stop and think and it will be the first step on the road to much-needed reform of the EU.

Matthew McGregor is the Director of the Centre for a Social Europe.

www.social-europe.org.uk
Chris Patten is right when he says that the people of the UK must make an ‘existential’ decision concerning our future relationship with the EU. Evoking existentialism, a philosophical approach usually associated with Jean-Paul Sartre, Albert Camus, the Paris Left Bank and 1950s Beatniks, may appear, at first sight, a fairly obscure thing to do. However, Britain’s recently retired European Commissioner is arguably making a highly incisive observation that those of us opposing the EU Constitution should act upon if we want to avoid defeat in the referendum.

The ‘No’ campaign must start with the recognition that our victory is far from ‘inevitable’ and that the British people must be presented with concrete pragmatic reasons for rejecting progression to Brussels based government. There is no automatic patriotic trigger that can be pulled.

One of the major problems our side faces is that currently the most visible and vocal strand of the EU-sceptical coalition, what I shall call Music Hall Patriotism (MHP), is pursuing a lazy, extreme sounding strategy, based on an implicitly deterministic mindset. The Music Hall Patriots see national identity as something that resides deep within us, a primeval instinctive core that can be brought to life by uncompromising campaigning. They think the British people will automatically vote ‘No’ once the threat to Britain’s existence is brought home to them by the use of dated rhetoric and imagery reminiscent of the 1970s TV series, The Good Old Days. They see no need to apply a political self-denying ordinance to themselves in the wider interest of helping to forge a broad-ranging, cross-party political alliance to defeat the imminent threat we face. The MHPs self-indulgently combine the anti-EU agenda with hard-line culturalism and other issues that resonate most with those on the political right. One UKIP MEP infamously even said that women should stick to cleaning fridges.

This, unfortunately, is currently the principal face in Britain of opposition to a Brussels-based government. It is a godsend to politically hostile and mischievous journalists at the BBC and elsewhere. MHP’s sectarian approach is embodied by the upper echelons (though not necessarily the grassroots) of the UK Independence Party, Robert Kilroy-Silk, elements on the conservative right of the political spectrum, and This England magazine, among others. It plays straight into the hands of the Government by abandoning the terrain of the future and talking obsessively about Britain’s past. It is helping to confirm the impression that EU integration is the more modern and liberal option, when in fact the opposite is the case.

If we are to win, Euroscepticism needs to attack the ‘Yes’ campaign from a completely different angle.

If we are to win, Euroscepticism needs to attack the ‘Yes’ campaign from a completely different angle. We need, in an age when younger individuals are psychologically attuned to ever-faster rates of technological and cultural change and are concerned out of self-interest about how the future is to be negotiated in the globalised era, to construct a very different type of narrative. In addition, at a time when aesthetics are playing an increasingly important role in politics, the campaign for a ‘No’ vote requires a massive makeover.

In terms of its content, existentialism can help us turn the tables on our opponents because it is predicated upon a recognition of the centrality of free will, continuous change, and the inherently unpredictable, messy nature of human existence. This implicitly leads to a rejection of the type of top-down elitism associated with the EU project. Albert Camus warned us about authoritarian ideologies that believed they were the inevitable wave of the future and were in possession of objective political meaning. For existentialists, meaning derives from individuals and when the elite seeks to impose its grand plan on the rest of us, we are reduced to the status of mere objects whose function is to conform to the will of those who hold power. At the political level this reasoning leads to a belief in a liberal democratic system whereby our free choices can find expression. Just as in a person’s own private life, societies must have the collective capacity to adapt quickly to often unforeseen, changing circumstances, to change course.

The EU project represents the opposite, outdated, early twentieth century mentality. It seeks to centrally impose decisions in a linear-causal way on peoples living in hugely divergent situations and with different, constantly changing aspirations. Pan-Europeanism has the sinister, messianic implications that Camus spoke against. The EU Constitution, for example, establishes a series of broad political objectives that the Union can pursue independently of the wishes of actual voters in the Member States. Article 191 of the current treaty gives Brussels the right to remove funding from political parties and states that their role is to further a sense of ‘European awareness’. Article 108 forbids elected representatives to in any way try to influence the policies of the European Central Bank. EU officials enjoy immunity from prosecution. When the peoples of Ireland and Denmark had the temerity to reject earlier treaties in referenda, the Commission urged within days their Governments to go back and hold the poll again. Suggestions have been made by Peter Mandelson and others that a ‘No’ vote in the UK might not be the end of the matter. The project must reach its conclusion regardless of the wishes of actual Europeans.

Without going so far as to suggest that we attempt a collective revival of the black polo-neck or break open cartons of extra-strong unfiltered Gitanes, I want to argue that existentialist ideas can contribute (directly and indirectly) to the creation of an improved Eurosceptical strategy by: 1) developing a dynamic understanding of national identity; 2) encouraging the use of pragmatic arguments; and 3) creating a new aesthetic profile.

National Identity

Implicitly, if not explicitly, MHP perceives that national identity is the product of cultural heritage or ethnicity, or a combination of the two. This is why it characterises the EU debate in terms of ‘no to foreign rule’, and ‘the British verses the Europeans’. Some MHPs even do the BBC’s work for it by proudly referring to themselves as ‘anti-Europeans’. Nationhood
is understood in very different terms by existentialists. We are born into nation-states but national identity is not part of our DNA. There is no timeless, patriotic essence. Human beings determine their own identities and destinies. Hence Sartre’s famous ‘existence precedes essence’ slogan employed in his *Existentialisme est le humanisme* lecture given in Paris in 1945. Whereas, say, a letter knife has been created in order to fulfil a set function and cannot choose to alter its own role in life, humans are constantly re-defining themselves and committing themselves to new objectives. An object manifests ‘being in itself’ whereas a person is a ‘being for itself’.

Relating the existentialist insight to the European issue, it follows that identifying myself as ‘British’ is an act of commitment. I may live in that territorial jurisdiction known as the United Kingdom, but this does not mean I must identify myself as ‘British’. I could choose to think of myself as ‘Pan-European’, ‘English’, a ‘citizen of the World’, or something else. Constitutions are given life and sustained only by the actions of human beings. If they survive it is because of the belief systems individuals choose to adhere to. Political systems have no intrinsic, mysterious value and objective meaning. Equally, there is nothing ‘inevitable’ about their demise and replacement by other forms of government.

**Pragmatism**

During periods of stability the constitution of a country will often be taken for granted by the vast majority; it will *appear* to be part of the natural order. National identities can become so interwoven psychologically with our ideas of self that we imagine ourselves sub-consciously to be pre-determined entities whose function it is to be loyal to the nation-state. But this is a self-deception, or ‘bad faith’ as Sartre put it. All acts of patriotism are in reality chosen.

The systems of thought that underpin national allegiance can become challenged and unwind. For a variety of reasons, both internally and externally driven, Britain’s political system now faces a battle for survival. A characteristic of the age is the decline in automatic respect for the traditional institutions of state and civil society, the lack of enthusiasm for the two main political parties being an example. A growing proportion of citizens now have a very pragmatic, non-sentimental attitude to politics in general and the EU issue specifically.

**To win, the ‘No’ campaign will need to address the pragmatic priorities of the mass of voters outside of the Eurosceptical movement’s natural support base**

According to an ICM poll commissioned by New Frontiers in September 2004, 40 per cent of voters had a strong intention to vote against the EU Constitution, 18 per cent said they would definitely support it, with 30 per cent ‘swinging’ in-between the two hardline positions and the rest would not say. Conservative voters were overwhelming against (78.17 per cent), followed by Liberal Democrats (52.38 per cent) and Labour supporters marginally for (41.48 per cent).

Leaving the EU was backed by 13 per cent, but most of the referendum swingers were in favour of staying in. The least effective line of argument tested was the proposition that ‘only countries have constitutions’, whereas arguments relating to the lack of democratic accountability in Brussels, the cost of our financial contribution and concerns over the EU gaining more control over criminal justice were the most successful. To win, the ‘No’ campaign will need to address the pragmatic priorities of the mass of voters outside of the Eurosceptical movement’s natural support base. Waving flags, banging drums and hiring John Bull look-aliases will not be the way to win younger, non-conservative and non-aligned voters.

**New aesthetic**

In addition to the increasingly pragmatic and volatile nature of the electorate, another backdrop to the forthcoming referendum is the way in which politics is becoming increasingly *aestheticised*. Voters are determining who they will support on the basis of the instantaneous and emotional impact, and feelings of pleasure and displeasure, political campaigns generate. It is vital that we establish, by the cultural signals we send out, that our priorities are the same as those of the voters. This is not to imply, as is often now argued, that politics now resembles a rather bad beauty contest and has gone ‘post-rational’. Rather, returning to the above point, it is to contend that voters’ judgements are still made with reference to personal objectives and values but that less time is devoted to analysing the intellectual content of campaigns and attempting to consciously relate means to ends. Political concentration spans are shorter than they were, the pace of life is faster and the visual is in the ascendancy over the literary. The multifaceted nature of the EU Constitution, the relatively high personal commitment required to ascertain its contents and the bewildering claims and counter-claims of the rival campaigns will probably exacerbate this tendency.

Therefore to be successful our side must convey simply and immediately that a ‘No’ vote is not a defiance of necessary change and modernity because younger voters do not accept this is possible or desirable. An existentialised ‘No’ campaign will devise a brief message that establishes the moral superiority of our case and challenges head on the assumption that transferring powers to Brussels is what the future demands. The value of democracy can be combined in a statement that goes something like this (but shorter, obviously, and not actually in these words):

*“The EU Constitution represents a return to pre-Enlightenment Europe in which an effectively unaccountable, corrupt political elite impose laws and decisions on ordinary Europeans. It exacerbates the current democratic deficit by handing new law making powers to the centre. In so doing it turns us effectively into objects rather than choice making subjects, the mere means to realise the existential wishes of the political class. A humanistic society enables individuals at the political level to give expression to their collective desires, whatever they might be."

*The last thing the peoples of Europe need in the context of an increasingly fast changing and unpredictable world is for a notoriously inefficient, clanking bureaucracy to be entrusted with the management of our collective destinies into the rest of the 21st Century. Speed of response, flexibility and ad-hoc international, global co-operation is what is now required. Decentralisation not yet more centralisation.”*

The referendum is probably now only about a year away. The Eurosceptic movement needs to make its own ‘existential’ decision about whether it projects itself to the British people as reactionary or liberal and progressive. How this conflict is resolved will have major implications for the choice the people make.

Marc Glendening is campaign director of the Democracy Movement.

www.democracymovement.org.uk
Institute of Directors Poll on the Constitution for Europe

by Dirk van Heck

One unequivocal result of the poll was that 86% of businesses surveyed expected regulation to increase under the Constitution, with only 3% thinking it would decline.

One unequivocal result of the poll was that 86% of businesses surveyed expected regulation to increase under the Constitution, with only 3% thinking it would decline. Thus many respondents, despite knowing little or nothing about the Constitution, believe that red tape will be familiar with the single market does not mean by businesses at that point. The results of the poll also suggest that many respondents would be prepared to vote in favour of the Constitution, despite the fact that they expect red tape to increase under its provisions. The natural inference to draw from this is that they believe the Constitution offers benefits that outweigh the burden of regulation. It seems likely, on this basis, that many have fallen for the Government's line that rejection of the Constitution would spell the end of the UK's EU membership and that the real question in the referendum will be whether we are in or out. And if this is the case, then it is implicit that those respondents believe that we are better off in (and in all likelihood that they conflate single market membership with membership of the EU).

Mr Templeman also said, "One thing that both sides of the debate need to focus on is raising awareness of the issues at stake. The decision to accept or reject the EU Constitution will be of great historical importance. An informed and rigorous debate needs to begin now, well in advance of a referendum." The debate will not of course begin in earnest until after the general election, expected in May, as all the major political parties wish to avoid discussing it during the election campaign. The poll shows, however, that the 'No' campaigners have just as much work to do in the way of public information as the 'Yes' campaigners; for example to show that a 'No' vote is not a vote to leave the EU, but a vote to block the Constitution and that access to the single market does not necessarily entail full EU membership.

The work of the nays will be more difficult than that of the ayes. This is partly because the funding regulations, laid down in the Political Parties, Elections and Referendums Act 2000, calculate the funding allowances of political parties for the purposes of referendums according to their share of the vote in a general election, partly due to the funding the 'Yes' side will receive from the EU and partly because, in the absence of detailed knowledge about the issue, the 'Yes' side's arguments appeal to voters' sense of caution. When it comes to swaying business leaders such as the respondents to this poll, the cost/benefit analysis will be essential. The 'No' side would do well to publicise its findings – and the fact that the Government has consistently refused to have such an analysis conducted in an official capacity.

A further difficulty is that the Electoral Commission has allowed the referendum question to be couched in terms that favour the 'Yes' side. The IoD poll reflects the wording of the referendum question in referring to the Constitution itself as 'the EU Constitution' rather than giving it its proper, and more intimidating, title, 'A Constitution for Europe'. So, despite the second reading of the European Union Bill having taken place in the Commons, much of the recent press comment on the Constitution has taken the form of a somewhat sterile debate about the functions of the Electoral Commission and the technicalities of opinion polling.

Following the publication of the IoD poll, there were calls for the organisation to start supporting the 'No' cause. It is more likely, from the tenor of the press release accompanying the poll results as well as from the recent political history of the IoD, that its approach will be more like that of the recently knighted Digby Jones at the CBI, if a little less kow-towing to new Labour. The Federation of Small Businesses, meanwhile, has decided to oppose the Constitution "on business grounds", thus steering clear of the wider debate; although it is to be hoped that the FSB, which is more of a representative organisation than a creature of the political/media world, will fight to make its voice heard in the coming campaign.

Dirk van Heck is Head of Research at the European Foundation.
A Running Sore on the Face of the Union: EU Fraud, Domestic Impotence and the Noble Lord Kinnock

by John Massey

“The Commission shall implement the budget … having regard to the principles of sound financial management.”

Article 274, Treaty of Rome

There was a weary sense of the futile and the predictable in Westminster Hall. This was through no fault of the participants, whose contributions were lively and informative. The debate attracted, perhaps understandably, scant political and media attention. Its subject: European Union Fraud. Again. Familiarity with this subject no longer breeds public contempt, but sheer, defeated indifference.

November 2004 witnessed the refusal by the European Court of Auditors to approve the accounts of the European Union for the tenth successive year.

This Private Members’ debate, on 26 January 2005, was secured by Edward Leigh, MP, Chairman of the Public Accounts Committee. The Government was represented by Stephen Timms, MP, Financial Secretary to the Treasury. Mr Leigh commenced with a survey of the nature and extent of EU fraud between March 1999 and November 2004. These dates are significant: in March 1999, the European Parliament in all too rare a show of principle forced the resignation of the entire Santer Commission; November 2004 witnessed the refusal by the European Court of Auditors to approve the accounts of the European Union for the tenth successive year.

It is hard to suggest which is the more horrifying: that the parlous mismanagement of taxpayers’ money has yet again been officially pronounced upon by the Court of Auditors (an institution of the Union itself, no less); or the fact that this endemic incompetence and waste arouses no real surprise, despite the fact that, according to Richard Bacon, MP, “if the EU was a commercial institution operating in the private sector, all of the directors would now be in prison.”. This EU-watcher will fall off his chair on the day the Court of Auditors do feel able to sign off on the EU accounts. Until that day, the taxpayers of Europe will continue to pour cash into the black hole of Berlaymont, without, it seems, any entitlement to even a valid receipt. It is this sense of frustration and repetition which pervaded this lucid, but ultimately depressing, debate.

The period traced by Mr Leigh witnessed the inception of the European Anti-Fraud Office, OLAF, under the inadequate ‘leadership’ of Neil Kinnock. Kinnock, recently emboldened and currently spending more time with his pension fund, was perhaps a surprising choice for the position, given his role as Transport Commissioner in the disgraced Santer Commission. Created in the wake of that Commission’s dramatic collapse, OLAF succeeded the generally discredited Unite de Coordination de la Lutte Anti Fraude (UCLAF) but, like UCLAF, its first loyalty is to its paymasters, the Commission itself, and not to the European electorate. As was lamented by David Heathcoat-Amory, MP, (whose forceful speech provided the title for this article), “It is a branch of the Commission. It is not truly independent.”

Given the rife ness of fraud at all levels of the EU, from the farmer claiming subsidies for ‘fields’ which, when finally checked, turned out to be located in the North Sea, to the serious allegations of nepotism and embezzlement levelled against former Commissioner Cresson, the need for a body such as OLAF is manifestly paramount. OLAF’s success may best be measured in its influence on the bodies to which it reports: in March 2004, Hans-Martin Tillack, a journalist for Germany’s Stern magazine was arrested by Belgian police at the instigation of the Commission. His documents and computer were confiscated. Tillack had played an important role in exposing the EUROSTAT scandal and his reward from the EU for performing this service (a service which the EU itself seemed incapable of undertaking) was a trumped-up charge of bribing officials. Tillack was held in custody for twelve hours and denied access to legal advice. The suspicion must be that the Commission was far more concerned about identifying (and punishing) Tillack’s whistle-blowing sources than in dealing with the serious fraud which he had identified. It is noteworthy that in doing so, the EU, with the questionable compliance of the Belgian Police, rode roughshod over both the freedom of the press and its own Charter of Fundamental Rights. As one commentator noted, “If this had happened in Zimbabwe, the EU would be calling for sanctions.”

The Marta Andreasen saga provides further woeful evidence of the Commission’s priorities. Ms Andreasen is a qualified accountant. She was appointed as Chief Accountant to the European Union. This should not surprise the reader. What is surprising, as Mr Heathcoat-Amory pointed out, is that she was the first holder of this post to have such a qualification and the first to understand the rudiments of double-entry bookkeeping. Needless to say, Ms Andreasen could not bring herself to sign the EU’s accounts. She resisted intense pressure from the Commission to ‘earn her salary’ by signing and was duly sacked. But for a minority of honourable exceptions, MEPs checked their expenses and breathed a sigh of relief. As Mr Heathcoat-Amory ruefully observed, “the only people who ever lose their jobs are the whistleblowers – the people who draw attention to scandals.”

MEPs themselves have a less than proud tradition in this regard. Upon the adoption of Regulation 1073/99 affording extensive investigatory powers to OLAF, a significant number of MEPs attempted to stifle that measure’s effectiveness by claiming that it infringed their cherished immunity. This undignified legal challenge was thrown out, is that she was the first holder of this post to have such a qualification and the first to understand the rudiments of double-entry bookkeeping. Needless to say, Ms Andreasen could not bring herself to sign the EU’s accounts. She resisted intense pressure from the Commission to ‘earn her salary’ by signing and was duly sacked. But for a minority of honourable exceptions, MEPs checked their expenses and breathed a sigh of relief. As Mr Heathcoat-Amory ruefully observed, “the only people who ever lose their jobs are the whistleblowers – the people who draw attention to scandals.”

MEPs themselves have a less than proud tradition in this regard. Upon the adoption of Regulation 1073/99 affording extensive investigatory powers to OLAF, a significant number of MEPs attempted to stifle that measure’s effectiveness by claiming that it infringed their cherished immunity. This undignified legal challenge was thrown out, is that she was the first holder of this post to have such a qualification and the first to understand the rudiments of double-entry bookkeeping. Needless to say, Ms Andreasen could not bring herself to sign the EU’s accounts. She resisted intense pressure from the Commission to ‘earn her salary’ by signing and was duly sacked. But for a minority of honourable exceptions, MEPs checked their expenses and breathed a sigh of relief. As Mr Heathcoat-Amory ruefully observed, “the only people who ever lose their jobs are the whistleblowers – the people who draw attention to scandals.”

MEPs themselves have a less than proud tradition in this regard. Upon the adoption of Regulation 1073/99 affording extensive investigatory powers to OLAF, a significant number of MEPs attempted to stifle that measure’s effectiveness by claiming that it infringed their cherished immunity. This undignified legal challenge was thrown out, is that she was the first holder of this post to have such a qualification and the first to understand the rudiments of double-entry bookkeeping. Needless to say, Ms Andreasen could not bring herself to sign the EU’s accounts. She resisted intense pressure from the Commission to ‘earn her salary’ by signing and was duly sacked. But for a minority of honourable exceptions, MEPs checked their expenses and breathed a sigh of relief. As Mr Heathcoat-Amory ruefully observed, “the only people who ever lose their jobs are the whistleblowers – the people who draw attention to scandals.”

In fairness, OLAF is not always the toothless poodle which it sometimes may seem. It has produced a scathing report into Cresson’s alleged corruption; it has uncovered massive fraud in the humanitarian aid supplied to Kosovo, resulting in a prison sentence for the perpetrator and the recovery of €2.7 million; it has recovered €20 million of fraudulently claimed expenses from a Commission agency; and it has belatedly, and only partially, engaged in the necessary dialogue with the Court of Auditors and the European Parliament’s Committee on Budgetary Control. In wrapping up this debate for the Government, Mr Timms drew attention to the vitality of the new detection and enforcement regime; Commission President Barroso has pledged “a new start” and “zero tolerance of fraud”. Mr Timms declined to commit the Government to any additional steps in furtherance of the eradication of fraud, in spite of the opportunities to do so afforded by the UK’s forthcoming Presidency of the EU. This is perhaps understandable on two grounds: the last thing this Government wants, in the build-up to a referendum on the Constitution, is the revelation of widespread squandering of public money by the EU; and even if the political will for such measures did exist, the jealously guarded unaccountability of the Commission would make the attempted permeation of its protective fiscal membrane by a lone, disgruntled Member State a thankless process.

OLAF must not allow the Commission to hide behind a protective policy of ‘least said, soonest mended’

It must be borne in mind that any fraud investigation risks being bedevilled by its own success. In order to eradicate fraud, an investigating body must first uncover, identify and quantify misdeeds. This creates something of a paradox in that the more successful an investigating body may be, the more fraud will appear to be ‘created’. (Mr Timms referred to the EU’s annual Fight Against Fraud document which estimated irregularities of €921 million, of which anything upwards of 20 per cent may be fraudulent.) OLAF must not allow the Commission to hide behind a protective policy of ‘least said, soonest mended’ and must resist any pressure not to embarrass, if only temporarily, its institutional masters by revealing fraud’s true grip on the Union’s finances.

Until this happens, we are at the mercy of the Commission’s fiscal opacity. Ian Davidson, MP, deplored the lack of access on the part of Member States to the EU’s books. He agreed with Mr Leigh’s suggestion that, until such time as OLAF and the Court of Auditors are able to inspire confidence in the EU’s accounts, it is the national parliaments who should be entitled to police their ‘investments’ in the EU. Failure to do so, argued Mr Davidson, amounts to an appearance on the part of the Government of “acquiescing in the present level of EU fraud, irregularity and mismanagement [and] will be seen as placing the EU project above the rights and duties of the Government and the interests of EU taxpayers.”

The Commission has, with some justification, argued that the policing of fraud is a two way street. Indeed, Article 280 EC (preserved but, deplorably, not strengthened in Article III-415 of the Constitution) defines this relationship at some length. There is no doubt that the laxness of enforcement in some Member States contributes to the level of fraud perpetrated on the EU taxpayer. According to Colin Breed MP, “Spot checks [on agricultural subsidies] found that 25 per cent of farm payments in Italy were in error or fraudulent, 23 per cent in Greece, 21 per cent in Spain, and 14 per cent in France. Our error rate was said to be 6 per cent.” Different attitudes to public money prevail in many Member States and the UK is uncommonly punctilious in its auditing of state expenditure. Bill Cash MP drew attention to the dangers for the United Kingdom of reliance upon other Member States in protecting its contribution: “Because of the nature of the budgetary arrangements in the European Union … mismanagement and fraud in other countries impinge on our financial arrangements.”

This debate revealed far more than the mountainous extent of EU fraud; it revealed the fundamental dissonance which masquerades as “our position at the heart of Europe”. The difficulty lies along these lines: a Member State exerts the Commission to action; the Commission recites back to that Member State its Treaty obligations; that Member State cannot, acting alone, effect change beyond its own borders. To apportion responsibility in such a self-perpetuating, cyclical impasse is almost futile. It is not the participants who are necessarily to blame; it is the defective institutional nexus itself which stymies progress.

Let us therefore look to this flawed source; let us look to the Common Agricultural Policy, which by its nature penalises honesty and which fails to distinguish between subsidies for Irish sheep which had died and subsidies for Irish sheep which had never existed; let us look to an institutional structure which, in the words of Mr Bacon, is “fundamentally susceptible to corruption”; let us not heap blame on the Commission and its agencies if that serves to exculpate the putative guardians of our interest in Europe, the over-rewarded MEPs; let us not depend on the fiscal practices of other Member States, no matter how impeccable or Augean they be. In practical terms let us adopt Mr Bacon’s ‘shock therapy’; let us heed Mr Leigh’s clarion call to follow the UK subsidy into (and, more importantly, out of) the EU’s books, so that our own National Audit Office (“which has a reputation second to none” according to Mr Leigh) may pronounce with authority on the value of EU membership and thus permit an informed, popular decision in the forthcoming referendum.

The protagonists in this debate deserve our plaudits for perseverance. But they are speaking almost into the void; zealous though they may be in their protection of our national interests, their reasoned outrage was suffused by a perceptible sense of impotent despair. This is the Teflon-coated EU and this is Blair’s ‘Big Picture’ Britain, where rapid consensus beats the enforcement of accountability hands down. Let us not hold our breath.

A Hansard transcript of this debate is at: http://www.publications.parliament.uk/pa/cm200405/cmhansrd/cm050126/halltext/50126b01.htm

John Massey is a researcher at the European Foundation.
**Referendum Review**

Keeping you up-to-date on referendums throughout the EU

by Sara Rainwater

**Focus on Spain**

On 20 February, Spain became the first country to hold a referendum on the EU Constitution. A pre-vote Ipsos poll predicted that less than half the Spanish population would turn out on the day, which turned out to be correct. A mere 42.3 per cent of the electorate made it to the polls, with a resounding 77 per cent of that number voting in favour of the Constitution. Prime Minister José Rodriguez Zapatero hailed the results as “a great day for all Europeans” and hoped that the Spanish “Yes” vote would push other EU nations to follow suit. However, critics have been quick to point out that this was the lowest voter turn out since 1975, as well as the fact that a majority of Spanish voters have admitted to knowing very little about what they were voting on. French President Chirac and German Chancellor Schröder both headed to Spain in the lead up to the vote in order to boost the ‘Yes’ campaign. The week before the referendum, thousands of protestors converged in Barcelona to demonstrate against the Constitution in a last ditch push for a ‘No’ vote. The referendum in Spain was non-binding, but Zapatero said his Government would uphold the will of the people.

**Belgium**

The Belgian Government has been expected to hold a non-binding referendum on the Constitution. However, events in the last week of January saw Belgium’s chances of this fall short. Prime Minister Guy Verhofstadt lost the political backing needed to stage the poll after one of his Government coalition partners, the Spirit Party, withdrew its support for the measure. The question of Turkish membership was the Spirit Party’s deciding factor – they fear that the far-right Vlaams Party would use this issue to secure a ‘No’ result. A public vote on the Constitution would have been the first referendum in Belgium since 1950.

**Czech Republic**

Czech President Vaclav Klaus has called on experts to examine whether the EU Constitution conflicts with the Czech Constitution. Klaus, who is staunchly opposed to the Constitution, is questioning whether changes need to be made to the national Constitution in order to pave the way for the EU Treaty. The main debate amongst Czech politicians is not over whether a vote should be held, but instead when it should be done. The Government coalition wishes to see a referendum held in conjunction with the parliamentary elections in June 2006; however, the opposition Civic Democratic Party (ODS) is in favour of a separate vote to be held by the end of the year. It has been hinted at that the ODS is preparing a bill which would allow for a public vote before the end of the year.

**Denmark**

Pro-Constitution Prime Minister, Fogh Rasmussen, will be serving another term as leader of the centre-right Government and has promised to make a referendum on the Constitution a major political priority. However, he continues to remain vague on when the Danish people will be allowed to go to the polls. The Prime Minister will need the support of opposition parties in order to secure a ‘Yes’ vote in the traditionally Eurosceptic country. Many Danish experts believe, though, that recent infighting over the Constitution within opposition parties has significantly reduced the chances of an early date for a public vote. A referendum is thus still expected in late 2006.

**France**

While a referendum still looks likely to be held by the summer, the French debate over the Constitution is being dogged by two issues: the potential membership of Turkey and economic reform. Le Monde has been reporting that most political parties in France are currently split over the Constitution and that the spectre of Turkish membership is exacerbating these divisions. Popular hostility to the Constitution is growing, as many French workers fear the impact of new EU legislation giving foreign nationals access to French markets and jobs. Both concerns seem to have negatively impacted the ‘Yes’ campaign, as some recent polls show support for the document to be slightly waning. However, Chirac is pushing for the date of the referendum to be brought forward amid his fears that the ‘No’ vote is gaining momentum. The Green Party has become the most recent French party to accept the Constitution in an internal referendum, but only by a narrow majority.

**Germany**

According to media reports in Germany, the Franco-German alliance may be used to boost the chances of a ‘Yes’ vote in the French referendum. While Germany will not be holding a referendum, it may ratify the Constitution in its own Parliament, strategically, immediately before the public vote in France. The heads of the French and German Parliaments, Jean-Louis Debré and Wolfgang Thierse, committed to this schedule at the beginning of February.

**Italy**

The Chamber of Deputies, Italy’s lower house of Parliament, ratified the document on 25 January. 436 deputies voted in favour, 28 voted against and 5 abstained. The ‘No’ votes came from members of the Northern League and the Communist Party. The Constitution now heads to the Senate for final ratification.

**Malta**

Political leaders in Malta have announced that a parliamentary vote to ratify the Constitution will be held by mid-July of this year, later than originally expected. This move will allow the opposition party more time to study the document and come up with a firm position on the issue.

**Poland**

Despite continuous translation errors with the Constitution (See European Foundation Intelligence Digest, Issue 206), the Polish Parliament will go ahead and start the ratification process. A debate in the Sejm must first be conducted before taking the question to the public. The ruling Democratic Left Alliance (SLD) is still in favour of holding a vote at the same time as their general election. The Eurosceptic, centre-right opposition parties, who many expect to overtake the SLD, are in favour of holding a referendum in 2006.
Slovenia

Slovenia became the third country to ratify the European Constitution in a parliamentary vote on 1 February. The Constitution passed overwhelmingly with 79 of the 90 MPs voting in favour, a mere 4 voting against, and 7 abstentions. This was more than enough to meet the two-thirds majority requirement to ratify. According to a recent opinion poll conducted by the Ljubljana’s Social Sciences Faculty, only 54 per cent of Slovenia’s citizens supported ratification.

The Netherlands

A non-binding referendum was definitively confirmed after both houses of the Dutch Parliament voted in favour of the measure. The Senate gave the final go-ahead on 25 January. The Government has promised to conduct a determined ‘Yes’ campaign amid fears that looming Turkish membership may be exploited by anti-Constitution parties. The Government has come under heavy criticism for allegedly reserving a further €1.5 million of public funds for the ‘Yes’ campaign, which will be used to combat a thriving ‘No’ campaign. This is in addition to the €1 million which has already been distributed equally between both camps.

United Kingdom

Foreign Secretary Jack Straw announced the wording of the question to be put to the British public in a referendum when the recent European Union Bill was published on 25 January: Should the United Kingdom approve the treaty establishing a Constitution for Europe? Fierce debate ensued between pro- and anti-Constitution camps in the Commons during the second reading of the Bill, which passed by 345 votes to 130 and paves the way for the upcoming referendum. The Government is still extremely hesitant on committing to a date for a referendum, although is it still expected to be held as late as possible, most likely early 2006. It has been speculated that the vote may be held on ‘Super-Thursday’, to coincide with local and mayoral elections. The Conservative Party has promised, if elected to power in the impending general election, to hold a public vote by October of this year. Interestingly, a recent Populus poll conducted for The Times indicates that hostility for the document may be in decline; 36 per cent of those polled would vote ‘Yes’, while 29 per cent would vote ‘No’. This is the first survey of its kind to show such results.

Sara Rainwater is Editor of the European Journal.

---

<table>
<thead>
<tr>
<th>Already Ratified</th>
<th>Mode of ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lithuania</td>
<td>11 November 2004 parliament</td>
</tr>
<tr>
<td>Hungary</td>
<td>20 December 2004 parliament</td>
</tr>
<tr>
<td>Slovenia</td>
<td>1 February 2005 parliament</td>
</tr>
<tr>
<td>Spain</td>
<td>20 February 2005 referendum, with final approval by Parliament</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parliamentary Ratification</th>
<th>Expected Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Belgium</td>
<td>Mid to late 2005</td>
</tr>
<tr>
<td>Cyprus</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Estonia</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Finland</td>
<td>Late 2005</td>
</tr>
<tr>
<td>Germany</td>
<td>Mid 2005</td>
</tr>
<tr>
<td>Greece</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Italy</td>
<td>1 February 2005†</td>
</tr>
<tr>
<td>Latvia</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Malta</td>
<td>July 2005</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Early 2005</td>
</tr>
<tr>
<td>Sweden</td>
<td>Late 2005</td>
</tr>
</tbody>
</table>

† Ratified in the lower house – Awaiting ratification by Senate

<table>
<thead>
<tr>
<th>Ratification through Referendum</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>Late 2005 or June 2006 Latter date would coincide with parliamentary elections</td>
</tr>
<tr>
<td>Denmark</td>
<td>Late 2006</td>
</tr>
<tr>
<td>France</td>
<td>Mid 2005</td>
</tr>
<tr>
<td>Ireland</td>
<td>Late 2005 or early 2006</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>10 July 2005 Possibly to coincide with presidential elections</td>
</tr>
<tr>
<td>Poland</td>
<td>Late 2005</td>
</tr>
<tr>
<td>Portugal</td>
<td>Mid to Late 2005</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>May or June 2005</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Early 2006</td>
</tr>
</tbody>
</table>
Pan-European Democracy: the impossible dream

by Roger Helmer, MEP

I don't think I've ever met anyone who actually believes that democracy 'at the European level' is functioning properly. Often those who are most passionately pro-EU will be quick to deflect criticism by pointing out the EU's faults. Bill Turncoat-Dunn, who sat as a Conservative MEP for 16 years before deciding we were too Eurosceptic for him, and defecting to the Lib-Dems, claims to have invented the phrase "democratic deficit".

Yet they still hanker after the dream. Let's just tweak it a bit, they say. Let's give more powers to the elected representatives of the people in the European Parliament. Let's have an elected President, and perhaps an elected Commission, and then we will have the perfect trans-national democracy, and national governments can simply fade away. We shall all be happy in a Europe of regions governed from Brussels.

They forget that the European Parliament is, for the most part, a self-selecting group of Euro-enthusiasts. How so? Simply because most people who offer themselves as candidates are already EU enthusiasts, from whichever party they come.

They forget Tony Benn's famous dictum that the true test of a democracy is whether we can fire the people who make our laws. In Britain, we can, and rightly or wrongly we did so in 1997. In America they can, as they showed in 2000. But in the EU, we cannot. The best we can do is to make small changes in the shifting balance of coalitions within one out of several governing institutions. The public, consciously or not, understands this, which is why so few turn out in European elections, and why those who do turn out are so apt to vote for minority parties like the Greens or UKIP, just to make a point.

There are profound and fundamental reasons why democracy at the European level cannot work, and I shall come to them. But first, let's consider EU democracy in action.

On 12 January, in Strasbourg, a parliamentary vote on the EU Constitution was followed by scenes which should serve as an awful warning to those inclined to swallow the rhetoric of European values, freedom, democracy and human rights.

Predictably, the Parliament voted in favour of a glowing report on the Constitution, by a majority of 500 to 137. But forty British MEPs – a majority – voted 'No'

(including all Conservatives voting). 29 voted 'Yes', and the remainder abstained or weren't there. A majority of MEPs from both Poland and the Czech Republic also voted 'No'.

The 'No' total of 137 shows the difference from the previous Parliament (1999/2004), where we would have been lucky to get 80 'No' votes on this kind of issue. We are still a minority, but a much bigger minority.

The Parliament, anticipating the 'Yes' vote, had planned a party. They spent around £¼ million of taxpayers' money on a great celebration.

The Parliament, anticipating the 'Yes' vote, had planned a party. They spent around £¼ million of taxpayers' money on a great celebration – champagne, canapés, banners, balloons, fireworks, a laser light show, a Japanese band, and invitations for a hundred 'grandes plumes' (journalists) and biens pensants (opinion-formers), all selected as reliable apologists of the Commission.

Given that most British MEPs voted 'No', and that most Brits in opinion polls oppose the Constitution, we might ask whether our money was well spent.

Imagine that our Labour Government won a parliamentary vote on the Constitution, and decided to launch their 'Yes' campaign with banners and bunting in the Palace of Westminster, with fireworks and laser-lights, at tax-payers' expense. It would be an outrage against democracy. We should be furious. We should hound them from office. But the European Parliament does this, and no one seems to care. We ought to get angry. Very angry.

We had planned to counter the Parliament's PR effort by providing ourselves with 'No' banners and balloons. We had a very tall young man dressed up as 'The Constitution Monster', symbolically 'devouring democracy'. (Later we took him to the visitor desk and believe it or not they provided him with a new parliamentary ID card, complete with photo of the monster mask – a bad omen for Labour's ID card plans!)

When the demonstration and counter-demonstration moved outside to the 'exercise yard' in the round tower, someone (heaven knows who) shot a load of what seemed to be confetti from a high window, onto the seething crowd beneath. It fell slowly, like a snowstorm or a swarm of butterflies, paper fragments turning in the air. It lasted for minutes, and was weirdly beautiful. And as the paper reached the ground, we saw that each piece carried the single word "No!".

OK, so they were cheap stunts. But we had to find a way to counter the official 'Yes' promotion, and to deny them a media opportunity. And we succeeded.

But it wasn't plain sailing. As colleagues and assistants set out to unfurl their 'No' banners, heavy-handed security men were sent in to remove them. A young lady assistant, Nikki Sinclair, was hit, wrestled to the ground by four burly guards and dragged along a corridor. Afterwards, shocked and tearful, she said, "It was like the Gestapo."

I myself had a vigorous shoving match to stop a couple of guards trying to roll up and remove my banner. Things could have got really nasty but for the timely arrival of the TV cameras, forcing the guards to back off.

After the demonstration in the exercise yard, 'Yes' demonstrators were allowed back in, but security made a determined attempt to exclude our assistants wearing their 'No' T-shirts.

Jim Gibbons, an independent TV producer with a firm called Quadrant, was there. He wrote, "An attempt by the protesters to unfurl rival banners in the atrium was thwarted by far more force than was necessary and in full view of the world's media. TV screens were filled with images of rough stuff." The Parliament claims that "There was no attempt to stifle protest." But as Jim Gibbons responds, "Whatever the intention, that is simply not true … I witnessed enough myself to know that it happened."

So the Parliament tried to justify itself with a downright lie. Not just the Gestapo, but Goebbels too.

When one of our colleagues remonstrated with a guard, he got an astonishing reply: "They told me we cannot allow political activity within the European Parliament." So what else is a parliament for, if not political activity?
As my East Midlands colleague Chris Heaton-Harris put it, “You can have as much democracy as you like in the European Parliament, so long as you always vote ‘Yes’.”

So that’s how ‘European democracy’ fails in practice. But there are sound reasons to believe that it cannot work at all.

It would be easy to dismiss the prospect of European democracy simply on the basis that the institutions are so arcane and complex, the decision-making procedures so obscure, the documents so long and tedious, that the public cannot engage with the process of governance. Decisions emerge from a Byzantine system involving at least four institutions, sometimes more, of which only one makes even a pretence of representative democracy.

The EU’s apologists make a facile assumption that democracy is simply a matter of counting votes.

But it is still more fundamental than that. The EU’s apologists make a facile assumption that democracy is simply a matter of counting votes. But that’s not democracy. That’s merely arithmetic.

Democracy implies a demos, a people, who share enough in common in terms of language, culture, history, identity, aspirations, and economic interests, that they perceive themselves as part of the same enterprise. They must feel, in some sense, ‘all in the same boat’. That common sense of identity and interest is indispensable to legitimise the outcome of a majority vote. It works in an English county, and it works in Westminster. But it manifestly does not work in Brussels. Nor, indeed, does it work in the Labour Government’s artificial ‘regions’, and for the same reasons.

If a majority vote takes place in Westminster, I accept the legitimacy of the vote, even if I disagree with the outcome. But if Lithuanians and Slovanes and Greeks and Portuguese, or even Turks and Ukrainians, combine to reach a majority vote, I cannot accept that it should be binding on us in our country.

John Stuart Mill put it beautifully. Writing more than a century before the EU was conceived, he seems to anticipate it. "Where peoples lack fellow feeling, and especially where they read and speak different languages, the common public opinion necessary for representative government, cannot exist."

So now we shall face attempts to ratify the EU Constitution. In the best EU tradition, the Constitution is a horse designed by a committee, a hugely long and tedious document, often incomprehensible and often self-contradictory. It finally establishes beyond peradventure the supremacy of EU law. Despite window-dressing clauses about national independence, it clearly creates a new country called Europe, and consigns national governments to little more than a heritage, legacy role.

In many respects it is more centralising than the American Constitution. At least US states can make their own policies on, say, capital punishment. Not so in the EU.

The very ambiguities of the Constitution, alongside the vague and loosely-worded ‘rights’ in the so-called ‘Charter of Fundamental Rights’, will lead to a field-day for lawyers and the creation of a huge new body of case-law. We shall simply not know what most of it means until the court has ruled. And we know that the ECJ is activist, political and nakedly pro-integration.

We are deciding, in effect, to hand legislation over from elected representatives to unelected and unaccountable judges – another nail in the coffin of representative democracy.

The Parliament’s report on the Constitution was co-authored by British Labour MEP Richard Corbett. This is the Constitution that marks the end of Britain as an independent nation. This is the Constitution that sets the capstone on a country called Europe, in which Britain becomes no more than a remote offshore province, governed from Brussels. This is the end of freedom and democracy as we know it, as the events in Strasbourg show all too well.

Richard Corbett is receiving a special allowance from the Parliament (more tax-payers’ money), to help him to promote his report, and the Constitution.

And Richard Corbett is receiving a special allowance from the Parliament (more tax-payers’ money), to help him to promote his report, and the Constitution. He is to get €3,000. So now at least we know the exchange rate. €3,000 is worth thirty pieces of silver.

The European dream has become a nightmare. It is time to wake up.

Roger Helmer is a Conservative MEP for the East Midlands and a member of the European Foundation’s UK Advisory Board.

... news in brief

Freedom of assembly to be restricted in Germany

The German Minister of Justice, Brigitte Zypries, has announced her Government’s intention to bring forward a law in time to prevent a neo-Nazi march timetabled for 8 May, the 60th anniversary of the end of the Second World War. She said that she saw no problem in voting the bill through. But that’s not democracy.

German corporate tax is highest in Europe

A study conducted by the Centre for European Economic Research in Mannheim has found that effective corporate tax in Germany is 36.1 per cent, the highest in Europe. The lowest is in Lithuania, 12.8 per cent. The statistic has been used to increase pressure in Germany for corporate taxes to be cut (although the figures for a place like Lithuania are partially misleading, since there is almost no economic activity there at all). France’s effective corporate rate is 33.1 per cent, 32.8 per cent in Italy and Malta, 18 per cent in Poland, 18.1 per cent in Hungary, 16.7 per cent in Slovakia and 14.4 per cent in Latvia. Ireland is also 14.4 per cent.

Rates for Belgium are 29.7 per cent, Denmark 27 per cent, UK 28.9 per cent, Switzerland 21.8 per cent. The calculation is based not just on simple tax but also on a comparison between the various tax rules in each country, e.g. what kinds of things can be offset against income. [Handelsblatt, 14 February 2005]
When Michael Howard made stricter control over immigration and asylum a central Tory policy commitment, the reaction from his critics was swift and predictable. Yet despite the emotive nature of this issue, the most strident denunciation of his plans has come not from Labour or Liberal Democrat spokesmen, or from any other domestic group, but from Brussels. Friso Rosco Abbing, chief spokesman for EU justice Commissioner Franco Frattini, objects to the proposals not on principle but because they contravene Union laws to which the UK has become irreversibly committed over recent years. According to him, Britain is ‘bound’ by these rules, and the Opposition must formulate its manifesto within parameters established by the emerging common asylum policy.

This intervention has shocked many political commentators on two grounds. First, Mr Rosco Abbing has demonstrated the extent to which the British legislature is bound to comply with stipulations emanating from Brussels. Second, his comments provide a striking contrast to the Government’s oft-repeated assertion that comments provide a striking contrast to the Government’s oft-repeated assertion that the UK’s decision not to participate in the Schengen Agreement (itself enshrined in EU law at Amsterdam), the UK secured a comprehensive opt-out from Title IV of the Treaty, an achievement widely celebrated as a ‘red line’ imposing a limit to British cooperation with European asylum policy. Coinciding as the Treaty did with a period of increased Euro-critical agitation in the important context of the domestic debate on UK commitments to the EU.

Mr Rosco Abbing’s response to the Tory announcement on immigration and asylum refers specifically to the Amsterdam opt-out, describing it as redundant following the UK Government’s decision to opt into negotiations on the Common European Asylum System. Having given its assent to every directive promulgated on the issue, the Government has effectively ceded the regulation of asylum to the EU. “Say [the Tories] set a quota of 10,000,” says Mr Rosco Abbing, referring to Mr Howard’s pledge to set a numerical limit on asylum each year, “the 10,001st case could say to a British judge, ‘Your government is bound by EU rules and is not at liberty not to consider my claim’.” The Common European Asylum System is already a reality.

A brief survey of legislation currently in force and approved by Labour ministers reveals the strength of Mr Rosco Abbing’s position. As the EU’s long-term response to the Kosovo refugee crisis, the Temporary Protection Directive is designed to prevent the asylum systems of individual Member States being overwhelmed by a similar humanitarian catastrophe. Its terms, however, have wide-ranging implications for any British attempt to set asylum policy independently of the EU. The granting of temporary protection to an individual, for example, automatically confers on that person the right to apply for permanent asylum, and anyone not granted temporary protection or the right of family reunion is entitled to take their case to national courts. Unilateral removal on the basis of a national quota would be illegal.

The Dublin II Regulation, which replaces the Dublin Convention of 1990 establishing procedure to determine the Member State responsible for specific asylum claims, also stands in the way of a quota system. Responsibility for an asylum application is decided under Dublin II by the circumstances obtaining at the time a claim is made. Once that responsibility has been established, the claim must be considered. No limit to asylum is envisaged other than the number of successful claims; when an application has been made to the correct country under the terms of the Regulation, it has to be processed. Conservative plans to admit a limited number of existing refugees nominated by the UN and to immediately remove others, such as arrivals from safe third countries and people who make asylum claims only when discovered to be in the country illegally, offend both the letter and the spirit of Dublin II.

The Directive on the Definition of a Refugee, adopted by the Council last April, is due to come into full legal force next autumn. Based on the 1951 UN Convention on Refugees (as prescribed in Title IV of the Amsterdam Treaty), the Directive sets out minimum standards for the identification of refugees and other persons in need of international protection and for the type of protection they receive. The discretion of Member States in these matters is non-existent. Even claimants who do not qualify for refugee status, such as serious criminals, are eligible for subsidiary protection, which confers entitlement to a renewable one-year residence permit. The principle of ‘non-refoulement’, to which all Member States are committed in accordance with earlier international law, is also emphasised: no asylum claimant can be sent to a country where he will encounter ‘serious’ persecution (the definition of which includes ‘discrimination’).

Other legislation agreed as part of the Common European Asylum System includes a Receptions Directive designed to harmonise standards across the EU to deter ‘asylum shopping’; Eurodac, a computer-
ised database to assist in the implementation of Dublin II; and a Council Decision establishing the European Refugee Fund to support the System's implementation. The full text of a Procedures Directive has yet to be agreed, but this is certain to proscribe instant deportation, and the deliberations concerning it have already thrown up questions about the suitability of the British judicial review system as an appropriate means of examining the way claims are processed.

The ultimate aim of Tory asylum policy, which the legislation recounted above entirely precludes, is to sever the link between arrival in the UK and the right to claim asylum. This would be a departure from terms set out in the 1951 UN Convention on Refugees, but has the potential to qualitatively and quantitatively improve British asylum provision. Under Conservative plans, the UN would decide whom, from lists of people already identified as being in need of international protection, to admit to the country. There would be no expensive and stressful application and appeal system and if, as has credibly been suggested, the Tories intend to set an annual quota of around 20,000, the number of refugees invited to settle legally could actually increase; last year, around 12,000 claims were accepted.

As Friso Rosco Abbing maintains, in matters of asylum the British opt-out from Title IV of the Amsterdam Treaty is meaningless because the Labour Government has chosen to accept all the legislation arising from it in relation to asylum. The decision not to participate in the Schengen Agreement is similarly compromised; UK border checks are vastly reduced in significance by the ceding of the asylum element of immigration policy.

At the time of the furore surrounding Mr Rosco Abbing's intervention, a spokesman for the Prime Minister defended this state of affairs on the grounds that Britain stands to benefit from the System's provisions. The Eurodac database, he said, was being used to identify asylum claimants who had passed through other EU countries, to which they were sent back under the terms of Dublin II. According to the spokesman, 200 are being returned to France each month. Ignoring the fact that this number represents a tiny fraction of applications for asylum in the UK, the Protocol immunising Britain from Title IV of Amsterdam establishes the right selectively to adopt Council measures on asylum and immigration. The source at Number 10 may have been right to aver that partial derogation from the System is now impossible, but wholesale acceptance was at no stage necessary in order to take advantage of individual components.

Even as his Home Secretary was assenting to legislation enshrining it in law, the Prime Minister publicly questioned the 1951 UN Convention on Refugees.

Shortly before the last election, Mr Blair acknowledged that its terms were inadequate in an age of affordable travel across great distances. He has since discreetly dropped plans to reform the Convention, but Michael Howard has committed a Conservative Government under his leadership to withdrawing from it in order to fulfill his pledges on the swift removal of dishonest and unsuccessful asylum claimants. The Convention itself has a mechanism for this: Article 44 (2) merely requires a year's notice from any participant intending to derogate. Such a course would have been controversial even before Common European Asylum System legislation came into being, as no signatory has ever removed its support. Now the System exists, Mr Howard knows that a meaningful British withdrawal would have to be accompanied by a revocation of all EU legislation taking the Convention as its starting point, and he has promised to repatriate all powers in this area ceded to Brussels by the Government.

This, says Friso Rosco Abbing, would be incompatible with EU law: “There is nothing in [the legislation] that allows a British Government to opt out again.”

He is right: as any student of EU legislative procedure knows, the corpus of Union laws and treaties – the acquis communautaire – can only be added to. Once a policy area falls under the EU's jurisdiction, Member States cannot retrieve the powers they have lost. Any attempt to unilaterally opt out of the asylum legislation would invite what the Commission terms 'infringement proceedings' against the UK, with continued recalcitrance punishable in the European Court of Justice.

What, then, can be done? Will the Tories even be able to take their promised tough stance on immigration (and, concomitantly, Europe) if Mr Howard becomes Mr Blair's successor? They can certainly try, but in addition to the 'disciplinary' reaction from Brussels envisaged above, they could also face opposition from the UK courts unless any new asylum legislation explicitly suspends the 1972 European Communities Act, which gives EU law primacy over that of Member States. Although it has been established that no EU law may “touch or qualify” the conditions of parliamentary sovereignty, it is not enough for legislation to implicitly contradict the terms of the ECA, as the 'Metric Martyrs' discovered in 2002. The 1985 Weights and Measures Act established their right to use imperial measures but made no specific reference to the ECA, which was therefore unaffected. European rules on the matter were declared to stand, and the martyrs lost their case.

Clearly, any serious attempt by the Conservatives to take back control of asylum would have implications far beyond immigration policy. The principle of 'non-refoulement', for example, goes to the heart of British commitments to international legislation not solely concerned with the movement of people, such as the European Convention on Human Rights.

The most important questions, of course, relate to Britain and the EU. Some commentators believe that Mr Howard purposefully chose asylum as an issue in which to confront Brussels. It is, after all, impossible to believe that he and his advisers did not expect to provoke a reaction from the Commission with their policies. Shadow Home Secretary David Davis's admission to the Daily Telegraph that the Shadow Cabinet "had a pretty good idea we would have to renegotiate" begs the response "renegotiate what?" Any re-establishment of the British opt-out on asylum would require the retrieval of ceded powers, for which Mr Rosco Abbing believes there is no facility.

An unscrupulous and secretive Government has, in fewer than eight years, undone a hard-won – and popular – series of British opt-outs from EU asylum policy. The dismantling of that unhappy legacy would require a landmark debasement of the 'ratchet' principle protecting the acquis communautaire. New Labour duplicity on asylum, or rather Conservative plans to reverse its effects, could produce an historic change in the EU's relationship with its members. The British worm, at least, may be turning.

Matthew Attwood is a freelance writer and can be contacted through the European Foundation or by emailing him at matthew_attwood@hotmail.com.
1 Europe miles ahead in number of referendums
The Initiative and Referendum Institute Europe reports that European countries lead the world with regard to the number of referendums held between 1991 and 2004. New statistics have been compiled in the 2005 Guidebook to Direct Democracy, published by the institute, which show a documented 517 national popular votes worldwide during this period. A whopping 317 of these were in Europe, 85 in North and South America, 54 in Africa, 31 in Asia and 30 in Oceania. For more information on the Guide, visit the Initiative and Referendum Institute Europe's website: http://www.iri-europe.org/
[EUObserver.com 4 February 2005]

2 CIA warns of possible EU failure
A recent report by the CIA predicting how the world will look in 2020 has forecast that the EU’s current welfare state could, at worst, lead to the disintegration of the Union. The report states that, “Structural reforms there [Germany] – and in France and Italy to a lesser extent – remain key to whether the EU as a whole can break out of its slow-growth pattern.” It suggests reforming the post-World War II welfare state model, which has been done successfully in Sweden, but doubts that current EU leaders would be willing to make even a partial break.

3 Stars shine for Space Week
February 12 – 20 was the EU’s Earth and Space Week, which brought together politicians, scientists and experts, as well as astronauts, to discuss Earth observation (EO) and cooperation in space. The joint effort of the Commission and European Space Agency included seminars, conferences and the all-important third annual Earth Observation summit, which focused on the development of a Global Earth Observation System of Systems (GEOSS for short). If the more technical aspects of EO weren’t what you were after, there was also a ‘star party’ on Valentine’s Day, or you could have attended the lighting of a big Earth and Space sphere in central Brussels.
[Eupolitix.com 3 February 2005]

4 BBC fails on impartiality
In an investigation commissioned by its own Board of Governors, the BBC was denounced for having a pro-European bias. The report found that this was not deliberate; the BBC “suffers from certain forms of cultural and unintentional bias.” This was linked to the “Westminster prism” through which most EU news is delivered, meaning the opinion of withdrawal from the EU had not been aired because it was not the policy of any of the major political parties. The report also found that most BBC presenters appeared “ill-briefed” on EU issues. The report’s conclusion was that the BBC was not “systematically Europhile”, but this was a serious area of failed impartiality.
[EUBusiness.com 28 January 2005]

5 Buzzing around Brussels
Hungarian beekeepers have flocked to Brussels for a lobby campaign, which may last several months, to demand that the EU’s honey directive be changed. The protesters feel Council Directive 2001/100/EC leaves EU beekeepers at significant disadvantage to foreign honey producers and want stricter labelling rules (which would ensure the country of origin was easily apparent) to be introduced. A Commission representative said there is no current plan to amend the directive.
[Euractiv.com 4 February 2005]

6 WEEE’ve got a problem says electronics industry
The EU’s 2002 Directive on Waste Electrical and Electronic Equipment (WEEE) goes into effect on 13 August, which means electrical goods manufacturers must pay the costs of recycling electrical products such as dish-washers, computers and industrial equipment. However, the directive leaves room for interpretation by each national government, which has caused industry leaders to issue warning. They fear that Member States are ill prepared to cope with the directive and the lack of competition within the recycling arena (which leads to heavily uneven recycling costs in individual countries) may have a negative effect on the single market.
[Eupolitix.com 20 January 2005]

7 Thailand told to buy six planes or else
The EU and its Member States have been extremely generous to the countries devastated by the tsunami. However, the Commission has informed the Thai national airline that it must buy six A380 Airbus planes in a “jets-for-prawns” deal that trade Commissioner Peter Mandelson has been working on since before the tsunami hit in December. This would amount to a total cost of £1.3 billion for Thai Airlines.
If the Thais do not purchase the aircraft, stiff tariffs on their prawns will remain in place. The EU imposed a 12 per cent tariff on Thai fish, more than three times the tariff on neighbouring Malaysia, in a protectionist measure against the world’s largest producer of prawns. 12 per cent is, however, low in relation to the US’s tariff on Thai prawns, which currently stands at 97 per cent.
[The Scotsman 19 January 2005]

8 New rights for passengers
New rights for passengers came into effect on 17 February regarding cancellations, delays and overbooking on flights. The EU legislation now includes flights originating outside the EU, as long as it is on a European carrier, and flights that are part of a package holiday. So now you get more monetary compensation, meals and guaranteed accommodation if you experience any of the headaches of air travel. At first glance it may seem great, but it probably is not all its cracked up to be. The European Regions Airline Association estimates that the new regulations could lead to an extra €1.5 billion a year in running costs, which will undoubtedly be passed on to the customer.
[The Times 28 January 2005]
Poor Hugo
by Freddie Gjertsen

In an office in Brussels a young bureaucrat is slavishly summarising the notes of innumerable committee meetings. Poor Hugo. He is trapped in an unlikely place where documents and directives, each bulging with meaningless phrases and ill-considered ideas, caper endlessly around, from hand to hand, from office to office. To distil a text of simplicity and elegance, precisely listing that which must and must not be done, is a necessity. And that is Hugo's job; for no one will read through the flabby, poorly phrased, stacks of paper that insightful committees and their sagacious members produce. These are the stacks of paper that shape the future of the European Union. Like an artist, Hugo must re-fashion them into tight little documents. With his black ink on white paper, translated into twenty languages, he must create your world. But his application of precision and concision only serve to recreate in the 'real world' the confusion which he battles to escape in his. His slender, young documents go forth to breed misery and bewilderment.

Why are these (relatively) little documents so insidious? For two reasons. Firstly, you cannot run the world from a piece of paper. Granted, laws are needed to control and prevent harmful activities. These are 'do nots'. But, specifying universal 'dose' is never effective. This is because such norms can never capture every single element of an activity. They demand that a lowest common denominator is met which there is no advantage in expending effort to exceed. You may work harder, may do better, but your additional efforts will not match any criteria and therefore go unnoticed. Secondly, the effectiveness of such 'do lists' decreases as the distance over which they are imposed increases. Should Hugo set a task for the person who sits beside him, he can ensure that the task he creates is entirely appropriate to their circumstances and disposition. They in turn have everything to gain by exceeding the remit of their task, knowing that Hugo will be fully aware of the additional effort that they expend. But, if Hugo sets a task for someone whom he has never met, who sits hundreds of miles away, then the chances of the task being appropriate or of their achievements or failures being recognised by Hugo are slight, if not non-existent.

Why does anyone attempt to control the world from a piece of paper? Blame computers. Some tasks remain that computers or machines cannot perform – and for these human beings still suffice. But, mostly, we manage computers. Unfortunately, as yet, a computer has no initiative, has no sense, has no intuition. It therefore falls to a human to prescribe every single element of every single task. "You must do A1, A2, … D5, and then I can turn you off for the night." Being only human, we become used to, and so come to favour, this crisp, clean mode of operating. (For it is the case that we come to like, or at least accept as normal, that which we are frequently exposed to.) It is part of the human condition that work pervades life, shaping the way that we think and act. Therefore, being only human, we come to also apply the principles of computers to human beings.

Irrespective of whether computers are blameworthy, it has come to pass that many criteria of performance are judged against a compendium of 'dos'. An earnest, hard-labouring, worker may take pride in their work, may show initiative, may be human – but none of this will be mentioned in a task specification. There is only the list. If it isn't on the list, it does not exist.

The list in question inevitably gets smaller and smaller in order to facilitate its contents being applied, and thus the specific detail necessary for it to be effective is lost. This is the way of life. Job descriptions, project plans, EU regulations, try to commit to a page the intricacies of an activity, listing exactly what it should be composed of. The task of cleaning a kitchen becomes "wash A1, scrub B2, etc. etc.", when it should be: "Clean the kitchen, I'll show you what needs doing and I'll be checking to make sure you've done a good job." But the latter way of proceeding requires intimate knowledge of the task and respect for the worker. The more remote you are from that worker, and the less you are able to monitor them, the less likely you are to trust and respect them. This makes it all the more necessary to have a precise list of what they are supposed to do, which can then be used as criteria for an audit. This list also allows the worker to make a note of every task that they complete. Unless such things are written down they never happened – a clean room would be dirty. The wonder of paperwork.

The latest in Hugo's endless trail of paper is a proposal for trans-European driving licenses. It would have been fitting to have something patently unwieldy, unnecessary and impractical to rail about, but just like every other regulation along the path to the country called Europe, this latest is understandable and practical. It makes sense that the countries of the EU standardise their driving licences. A provincial gendarme will never be able to distinguish a real Estonian licence from a fake Estonian licence. And simply standardising the licence format is not enough. Rogue member states may have 'easy' driving tests. 'Test tourism' will emerge and seventeen year-olds (or might they be sixteen, or fifteen, or ten?) will flock to Krakow and then head back to their homes as fully certified drivers having shown that they know the brake from the clutch pedal. Standardisation is essential – and it cannot stop at licences. Standardisation of speed limits, road signs, emergency vehicle markings and sirens, and all other things that a driver experiences whilst on the road will be the next necessary, sensible, only practical, step. This is the European Union.

Briefly an employee of the European Union, Freddie Gjertsen is now Managing Editor of Symbian Press.

---

news in brief

Greece presents new budget plan
The Greek Finance Minister, George Alogoskoufis, has written to the Commissar for monetary affairs, Joaquin Alumnia, to say that his government will present an improved stability programme, in view of the deficit procedure which the European Commission is bringing against it. The Commission has said that it will delay discussions, scheduled for 16 February, in order to give Athens more time to present a plan for bringing the budget in order. The previous Greek Government had cooked the books in order to appear to qualify for euro membership. The Greek deficit is now some 5.3 per cent of GDP. [Handelsblatt, 2 February 2005]
LETTERS TO THE EDITOR

From Mr Jack Scullard

Dear Mr Cash,

I have just been reading your article The Challenge for the Conservative Party: etc in last November's issue of the EJ.

I note that on page 11, with reference to myths and realities, your comment on whether the EU is helping to achieve peace in the Balkans is 'Better late than never'.

Having met expat. Serbs and heard of their experiences, confirmed by photographic evidence, I felt your comments were not justified by the facts.

I would suggest you read Edward Spalton's article "A resilient nation carries on" in the last issue of Right Now. I accept his account of how Serbs have been 'subject to Muslim oppression' – and have 'been taken over' just as thoroughly as by invasion and occupation.

The same invasion and occupation is now taking place in this country with the willing acquiescence of all our major political parties rendering the threat of use of armed forces unnecessary.

I now could never vote for the Conservative Party any more than I could vote for Labour or the Lib Dems. Nor can I ever be content with anything less than complete withdrawal from the EU.

Yours sincerely,
Jack Scullard

From Mr John S. Churchill

Dear Editor,

Rodent Odours

The Tories promise, if elected, to hold an early Referendum (sic) [Let the people decide] on the EU Constitution. This does hold out some hope for those of us who want nothing to do with the EU as presently organised but don’t trust electing them to bring it about. We thus find ourselves in a situation inverse parallel to 1974 when Labour promised to re-negotiate Common Market entry terms and subject them to a referendum. But I argue that this time the promise is Constitutionally illogical and consequently I smell a rat!

For there to be a true Referendum there has to be a proposal that has been through all the stages of a Parliamentary Bill prior to being given Royal Assent to put to the people. Anything else is only a Plebiscite [Ask the people] that has no force of law. Voting for the latter would be to assent to something that is a pig in a poke!

In reality there has to be some sort of a Bill passed by the entire Parliament to introduce the EU Constitution into UK Law; otherwise how else does it get onto the Statute? As a Treaty (which is all it is at the moment), applying by definition only to governments, HM the Queen (via the Royal Prerogative) could approve it without Parliamentary involvement. As soon as the terms affect the electorate (which they do), Parliament has to be involved with a Bill. If the decision contains a matter which is irrevocable (which it does), Parliament cannot make the final decision alone, hence the need for a proper Referendum following the Bill but prior to Royal Assent.

But if elected the Tories have no need for a Referendum to strike down the EU Constitution, only if they wish to enact it! Why then waste all the effort needed and the estimated £80 million cost if they plan to reject it? The election to office is their mandate.

Are we really going to have the ridiculous situation of a Tory government being elected just to create such a Bill only then to campaign against it in a subsequent Referendum? I think not! And with a mandate to introduce such a Bill what safeguard would we have for their subsequent contrahentes? Remember Ted Heath in the 1970 election manifesto "seek to negotiate terms; no more no less"?

No! What is needed is a promise of a Bill (such as the Swiss were given) to prevent themselves and future governments from making any further treaties with the EU for a long period of time other than being rescinded by another Referendum. It would establish, for the time being, a position of 'so far but no further' i.e. short of outright EU withdrawal. Then, with such backing from the British people behind him, Michael Howard would be able to negotiate a better deal for the UK than the EU Constitution provides because he would, for the first time in 30 years, be negotiating form (sic) a position of strength.

Ideally, the proposition in the Bill should be one to restore the supremacy of Parliamentary authority over EU 'laws' and the re-establishment of the primacy of UK Courts to rule according to Parliamentary (English & Scottish) Law only. This does not prevent EU laws being enacted but only if Parliament has formally agreed first. This is what most people thought they were voting for in the 1975 Referendum. (Remember the promise that there was "No surrender of essential Sovereignty")?

A question such as "Her Majesty's Government has approved the Sovereignty of the UK' Bill, restoring ultimate authority to the UK Parliament and Courts. Do you wish this to be presented to Her Majesty the Queen for her final Royal Assent?" would suffice. Adding a clause to the question stating that voting 'Yes' would, ipso facto, negate the EU Constitution from applying in the UK in perpetuity would meet the promise to hold the Referendum. But it would also conform with (UK) Constitutional niceties, EU opponents would be on the 'Yes' side for once as well as it being a logically sound proposition.

Perhaps a reader, staff member or contributor would care to comment.

Yours faithfully,
John S. Churchill

From Mr Walter J. Ablett

Dear Sara Rainwater,

May I wish you well as the new Editor and thank Annunziata Rees-Mogg for her excellent efforts over the past three years.

In your first article (Jan), you stated that you wanted to follow-up a Times article entitled 'Mandelson will spin for Europe' (10 Jan), because it causes some concern that this disgraced ex-Minister is now in charge of spin-doctoring for the European Commission.

I recall that in 1978, I visited the TUC-HQ. Whilst waiting at the reception, a woman came running in shouting, "Mandelson has been sacked by the TUC General Secretary for telling lies." I did not know Mandelson. I do now. Paul Rutledge's book, Mandy, reveals on pages 58/59 that Peter Mandelson was sacked by the TUC General Secretary for making unfounded statements. He had served his apprenticeship to become an MP. He has twice been forced to resign as a Minister.

You published (Jan) under "FACTS" a report (The Sun Jan 10) that Nigel Farage
MEP (UKIP) uncovered evidence that a new Commissioner, Siim Kallas, did not reveal in his CV, so misled the European Parliament, that he had been involved in a criminal charge on the disappearance of £4.4 million.

I wrote to Nigel Farage, informing him of Peter Mandelson, who had not revealed in his CV that he was sacked by the TUC General Secretary, so had to find other employment. He became an MP and adviser to Tony Blair. Mr Farage replied he would be raising this matter in the European Parliament.

Yours sincerely,
Walter J. Ablett, C. Eng
Chelmsford

From Mr Martin Rowe

Dear Madam,

Something that struck me in your latest edition was Roger Helmer’s article describing the mess the EU has got itself into over Turkey. This was easily foreseeable – and should have been.

If the EU wished to keep Turkey at some sort of arm’s length, the obvious way to accomplish this would have been to incorporate Christian or Christianity into the definition of the Constitution. I have never been able to understand the reluctance, leading eventually to refusal, to do this. It would have neatly explained to Turkey why any relationship with the EU must be of a ‘special’ nature and would have given comfort to some people in Europe to whom this was important. I am thinking most particularly here of the Pope. I really am nonplussed over this as even the most irreligious could not deny that whatever cohesion exists within Europe stems in large measure from the common Christian heritage.

Mr Helmer’s words on Turkey’s treatment of minorities prompts me to point out that Turkey is not a ‘nation state’ and could more accurately be defined as a ‘state nation’. (I may have borrowed phraseology from Philip Bobbitt in that sentence). One is on slightly dangerous ground here, as some European countries are barely nation states themselves. But so far as I am aware, none of us actually suppresses minorities.

Mr Helmer then goes on to extol the possibilities of Turkey having a ‘free trade’ relationship with the EU and saying what a good idea if we, along with perhaps Israel and the Ukraine, could have the same relationship. I heartily endorse that; as I am sure do most of your readers. In fact, it seems that most of the Conservatives at Westminster feel the same way. In that case, why isn’t it party policy? What on earth are they all waiting for? A lead from Tony Blair so that they can all say “me too” to that as well? The Tories badly need a policy to differentiate them from Labour. This, fitting in with their own sentiments, would be ideal.

The EU should be the most important policy issue in the coming (?) election. It will be to me and I shall be saddened if, as in June last year, I feel obliged to vote UKIP.

Yours faithfully,
Martin Rowe

From Mr John Papworth

Sir,

I do not understand the position of the European Foundation in regard to our relationship with Europe.

The policy of ‘renegotiation’ involves the assumption that the canons of democracy prevail and that such a policy is workable and realisable. Where is the evidence?

From its inception the ‘Europe’ project has been based on the need to counter popular hostility to the entire project with a deliberate policy of deception with regard to its true objectives and the high-powered manipulation of public opinion, almost entirely on the basis of public tax monies, using all the arts of psychological conditioning to gain acceptance for its objectives.

Despite these efforts the plot (it can only be accurately labelled in no other way) remains hugely unpopular and such voting successes as it has achieved are only on the narrowest margins after all the guns of deception and misrepresentation have been brought to bear.

It is noteworthy that not a single branch of any mass organisation, political, economic or social, has ever called for a united Europe; the initiatives have come from high-powered economic forces and their political henchmen who are determined that their concerns and their key forms of power shall prevail.

Their respect for the democratic process is purely notional; that process is not one to which they bow, it is one they are determined to subvert to their concerns to an ultimate degree. The current future about a referendum is just one example.

Why is it necessary at all if there is no healthy drive for a massive and dangerous realignment of the forces which intend increasingly to dominate our lives?

The outcome of the referendum is predictable; if a hairbreadth majority is achieved it will be taken as legitimising all this high-powered plotting and deception; if it not, a new constitution will be hatched and trumpeted as being an improvement, and then another barrage of tax-funded propaganda will be mounted for another ‘referendum’. The process will be repeated until the plotters gain their point and people will have lost their national freedom.

So with whom are we supposed to be negotiating? And on what basis? Where is the democratic process when the record is replete that the Brussels body today constitutes the most powerful and dangerous enemy of all that democracy is supposed to represent?

Realism demands that our Parliament should use such powers as it retains, and whilst it still has them, to affirm the elected Westminster body is the ultimate sovereign power of rule in these islands, and that any relations with external bodies should subject to that power.

This is not a matter of ‘renegotiation’; but of declaration and assertion. A policy of negotiation implies that two parties are prepared to negotiate. Where is the evidence that they exist?

With respect,
John Papworth
Editor, Fourth World Review

From Mr A. Stannage

Dear madam,

The necessity for Michael Howard’s proposals on immigration is paramount. As soon as the EU’s ‘Reception Directive’ is implemented, the treatment of asylum-seekers will come within the jurisdiction of the ECJ. This means that failed asylum-seekers will be able to invoke the Charter of Fundamental Rights to delay yet further legitimate national expulsion, clogging up our courts and draining public funds. The silence of Tony Blair on this matter is frightening. Is he perhaps unaware of his Government’s consent to this European legislation? Or is he, yet again, hiding critical facts from public scrutiny?

Yours faithfully,
A. Stannage
Brown’s Britain
Reviewed by Dirk van Heck

Brown’s Britain has become famous for the following exchange that encapsulates the broken down relationship between Gordon Brown and Tony Blair:

Brown: “There’s nothing that you could ever say to me now that I could ever believe.”
Blair: “You should have worked with me.”

The book is not so much a biography of Brown as the story of new Labour, viewed through the prism of the long political marriage between the two men. Peston’s key contention is that the failure of that marriage, in late 2004, heralded the prospective demise of new Labour and the emergence of a new brand of Labour politics under Gordon Brown, who will, we are told, put himself forward for the leadership of the Labour Party “very soon.”

An understanding of the two men is however central to an understanding of their relationship and Peston presents portraits of both: of Brown explicitly and of Blair largely by implication. Brown is a cerebral strategist with a memory for detail and a powerful sense of honour and conscience; Blair is a charming, but neurotic, tactician.

The result of Peston’s approach is that the personalities explain the politics. Brown was always convinced that, if the Labour Party was ever to be able to re-establish socialist government in Britain, it would first need to prove its competence at economic management. This was the strategic basis of his support for the European Exchange Rate Mechanism – a desire to show that Labour was now as tough on inflation as the Conservatives. On the UK’s forced exit from the ERM, however, he was virtually delirious, realising straight away that the historic moment had come when his party could seize the mantle of economic competence from the Tories. As a result, he pressed on with austere economic policies right up until the millennium, but in the course of this long crusade, alienated his colleagues in the Parliamentary Labour Party sufficiently to allow Tony Blair to take the leadership of the Party in 1994.

The legendary Granita deal of 1994 is crucial. Whilst Blair increasingly saw it as a historical bit of political manoeuvring, Brown saw it as the basis for the consolidation of domestic government under the auspices of the Treasury. So long as Brown and Blair shared the same vision for the Labour Party and for Britain, this would not be fatal to their relationship. When differences of ideology began to appear, however, the two became irreconcilable.

There are now serious policy differences between the two men. When Alan Milburn, then Health Secretary, first proposed foundation hospitals, Brown assumed that it was a classic attempt by a spending department to break free from the financial discipline of the Treasury. When he found out that there was more to it than that and that there were also plans to introduce tuition fees for students, he seems to have been appalled. On the other side, Blair is said to be horrified by the state of the pensions system and eager to abolish Brown’s pensions credits after the next general election.

Peston hints that a major factor in the breakdown of the Blair-Brown marriage other than differences in personality is the way that their respective jobs have moulded their perspectives. Perhaps the best case in point is their changing places on the euro. Whilst Blair wanted to enter the ‘European Superstate’…was not quite the myth he had thought it was”. Later, with the encouragement of his more constant (and more constantly euro sceptic) political partner, Ed Balls, Brown allowed the assessment of the ‘five tests’ for euro entry to be carried out on an objective and independent basis by the Treasury, which delivered a resounding ‘non’. Tony Blair then insisted that the assessment be re-written to say some nice things about the euro – unsurprisingly, in the light of the diplomatic difficulties he was facing with France and Germany in the build-up to the Iraq war, although Peston does not make this connection. In fact Peston tells us that Blair always thought the assessment was a tendentious exercise and that the very suggestion that the Treasury was being allowed to go about it in an honest fashion insulted his political intelligence.

The most logical reason for Brown’s apparently growing Euroscepticism is that he would not wish to see his macro-economic reforms undone by Britain joining the euro. Peston says that Brown is less concerned about this than many others in the Labour Party, but the key nuance, which Peston fails to emphasise, is that Brown’s vision of the EU is a reformed Union, not the kind of Union proposed by the Constitution for Europe. He thinks that the European Central Bank will be reformed in a similar way to the Bank of England and will adopt a ‘symmetrical’ inflation target. But, more than that;

“Brown no longer embraces the goal of ‘greater integration within Europe’. It’s the other sentiment, that of ‘greater coordination beyond Europe’ that he has developed over the past decade. These days he argues that Europe as a whole needs to be more integrated with the global economy, while its national members must keep a certain distance from each other.”

At the most basic level, there was a conflict of interest between Blair and Brown over the euro. Whilst Blair wanted to enter to euro to ingratiate himself with the leaders of France and Germany and to secure his coveted place in history, Brown was convinced that if there were negative economic consequences to joining, this would undermine his own future premiership. Ever since the Prime Minister publicly endorsed the ‘five tests’, the decision has been Brown’s to make. The question now is whether the EU will reform itself in a way that fits in with Brown’s alternative Labour politics to Blairism, which is anchored in classical liberal notions of Britishness combined with traditional Labour principles of equity and social justice, or continue down the introspective and dirigiste route prescribed by the European Constitution. One of the unanswered questions of the book is how the European Constitution fits in, or not, with the codification of the
A Guide to the Treaty Establishing a Constitution for Europe

By Stuart Sexton, The Education Unit, 2005, pp 87, £7.00, ISBN 873188 45 5

Reviewed by Sara Rainwater

You certainly can judge a book by its cover in the case of Stuart Sexton’s A Guide to the Treaty Establishing a European Constitution. Sexton has chosen a simplistic cover design – glossy yellow with plain black type – which perfectly sums up the contents within. Numerous guides have been published on the Constitution, each trying to pick the document apart and explain what it all means. However, few have managed to boil it down to the level Sexton has. He reduces the Constitution from 511 to 87 pages and turns it into something even my dear American grandmother could understand. Not even Jens-Peter Bonde’s ‘Reader Friendly’ edition of the Constitution, which is 219 pages, could do that.

The format of the book is simple and similar in style to Sexton’s previous guides to Maastricht and Amsterdam. He objectively summarises each article (or group of articles), then gives a brief commentary after each. This approach actually makes the guide a rather enjoyable read, as Sexton’s comments can be quite witty at times. It also breaks the text of the document up into manageable bites and, where possible, simplifies the language. This process makes the Constitution understandable for those of all levels of EU knowledge. The following is an excerpt from the guide, which shows just how easy Sexton has made it:

Articles I-53 to 56
These set out the basic principles on finance. A financial year; balanced budget; no authorisation of expenditure in excess of budget; sound financial management; no fraud or illegal activities.

Comment
Much of the detail on financial management describes what any reputable company would expect to follow, although it is surprising that certain items have been spelt out, for example no fraud. Unfortunately, up until now, it appears the EU has not managed its finances at all well, and there is fraud, and the accounts have not been approved year on year. There is no reason to suppose that spelling out the rules here will change anything for the better.

While there is the odd typographical error, they are easily overlooked; it is not the grammar one should be concerned with in this guide. Instead it is Sexton’s simplistic approach that should be appreciated. This self-financed project should give the Eurosceptic camp hope; it proves that people are passionate about understanding the Constitution and want to ensure the general British public do as well. If the Cowgill guide to the Constitution, Ruth Lea’s Essential Guide, or any other guides, are on your bookshelf, Stuart Sexton’s guide should be as well. If you would rather trek to the South Pole and back before reading the entire European Constitution, this little yellow number should change your mind.

Sara Rainwater is Editor of The European Journal.
WARSAW CITY GUIDE

by Samantha Elrick

Warsaw is situated at the very heart of Europe. It is, however, somewhat more marginalized in the orchestra of Europe than its geographical position would suggest. Its history is one of occupation and division, of fractured power and persecution. The contemporary perception of Warsaw has evolved from the horrors of Nazi occupation and the post-war communist rule. The city is shaking off these myopic perceptions of its history and becoming a popular tourist destination as well as a cultural and economic centre.

Poland was formed in the ninth century by the unification of Slavic tribes. The unification was consolidated under the rule of Boleslav I in 1025, but after his death the kingdom was invaded firstly by the Tartars and then occupied by the Czechs. From this period on, Poland would be under constant threat of invasion from neighbouring powers.

It was not until 1320 that the Poles ruled themselves again; the dynastic success of Casimir the Great enabled Poland to increase her territory and consolidate her position for a time. It was during the Jagiellonian period that Warsaw became a prominent city. The Parliament and the King’s residence were moved there in the sixteenth century, making Warsaw one of Europe’s youngest capital cities. The concentration of royal power in the region allowed Warsaw to flourish in a period of dynastic rule that would later be referred to as ‘the golden age’ in Polish history.

Warsaw's growth was again to be inhibited by external forces, a series of foreign invasions that were to become known as ‘the Deluge’. Poland was first subjected to invasion and plunder by the Swedes, then by the Turks and the Russians. The Poles were unable to expel the insurgents until the rule of John III Sobieski, but the respite from foreign hostility was brief as with the King’s death began a further period of division and uncertainty – the War of Succession.

The upheavals of the War of Succession allowed other European countries once again to assert their control. In 1772 the Russians finally partitioned Poland and over the next decade, Austria claimed Polish territories, whilst Prussia occupied Warsaw itself forcing the last King of Poland to abdicate. The fractured existence and identity of Poland was tested after 1795 as she was divided further and for a time no longer existed on the world map, her lands having been absorbed by neighbouring powers.

Despite the partition, the Poles retained their ethnicity and national identity and sought to regain their own state once more by supporting Napoleon in Europe. It was the Congress of Vienna that finally re-established Poland, but the Poles found themselves once more under the control of Russia. The oppressive rule of the Tsars gave rise to a series of failed insurrections. Despite the political instability, Warsaw industrialised in line with its neighbours and became one of the most economically prosperous cities in the region. However, the volatility of Europe was once again to disrupt Warsaw's newfound economic stability.

When the First World War began, Poland saw this as her chance to break free from Russian rule. The Poles came out on the side of the Germans initially, but the country was then occupied by Germany, putting paid to their rebellion against the Tsar. Poland regained her sovereignty after the war but the position was precarious by 1939 and the Russians and Germans would decide Poland’s fate once more. The German invasion of Poland began the Second World War and occupation by the Nazis devastated her capital and its people. The Nazis implemented their racial laws by isolating the Jewish district of Nalewki, turning it into a ghetto from which they transported many of its 400,000 Jews to concentration camps. The failed ghetto uprising of 1943 saw most of the survivors purged and the ghetto area totally destroyed. Meanwhile, the German invasion of Russia was faltering and the Red Army took advantage, advancing towards Poland, prompting the Home Army to rise up against its German occupiers. The Home Army was defeated and the persecution of Warsaw’s inhabitants continued. The Red Army finally liberated Warsaw in 1945, but Poland was again subjected to foreign rule.

Poland suffered devastation from numerous battles and from occupation, and the post-war period consisted of major regeneration. Warsaw was between eighty and ninety per cent destroyed by the war and its reconstruction has been painstakingly executed. The rebuilding of Warsaw has left it as something of an illusion; practically none of the palaces, churches or pre-war architecture remains. What exists now is a façade of the eighteenth-century original coupled with a style based on Soviet Social Realism. The bestowal of an award by UNESCO placed Warsaw on the world heritage list, a somewhat controversial addition, but it has brought tourists to the area and helped regenerate the economy.

Today Warsaw is a centre for industry, commerce and tourism; it has broken away from the constraints of communism and its Eastern Bloc image, holding its first democratic presidential election in 1991. As one of the ten accession states to join the European Union in May 2004, Poland may continue to experience fractured power, although of an entirely new kind.
devastated by the Second World War as well as by the much earlier Swedish invasion in 1655. Despite this fact there are examples of baroque, neo-classical and early modern architecture. A highlight of the route has to be the Royal Castle, which was reconstructed after the war. Most of the castle’s statues and furniture are original, as they were hidden from the Nazis during their occupation of the city. The most spectacular space on display has to be the Marble Room – its décor is just as the name suggests – and the other furnishings include portraits of Polish monarchs and seventeenth century ornaments.

Palace of Culture and Science
Built in the style of social realism, the palace has a somewhat controversial place in Warsaw's architectural history. It was built by the Soviets using German reparations and during their communist rule it seemed monument to Poland's foreign ruling powers rather than to the people of Warsaw. The building itself stands at around 230 metres tall and was one of the tallest buildings in Europe when it was completed in 1955. It is possible to ascend the building’s tower and on the terrace you can look out upon Warsaw.

The Former Jewish Ghetto and the Path of Remembrance
Warsaw has been historically characterised by its tolerance of other religious communities. Jews settled in Warsaw during the fourteenth century and developed a unique community in the Nalewki district. During the Second World War the Jewish community was isolated from the rest of the city and transported to concentration camps. What remains is a testament to the Jewish presence in the city. The Path of Remembrance begins at the monument to the ghetto heroes, continues past the bunker where the Jewish fighters organised the uprising and finishes at the Umschlagplatz Monument, where the Jews were deported to concentration camps. The route is commemorated because of the Jewish teacher Janusz Korczak who walked the path with his students to their deaths rather than remaining at his orphanage.
And Finally… February

The European Journal

I

effects of a startled V arsovian waking up in
KCZ bloc. Sadly, we enter an acronym-free
followed ours.

extra cause for fire and resolve if their vote
ballot boxes; they would certainly have
Czechs may have already objected at the
company . The Poles, Danes, Irish and

Wait a minute then, and take a step back here. We are looking
at an authorising article that tells us that you
don’t have to be in the Union to get along
with it, and that there is an alternative to
integration, namely “close and peaceful
relations based on cooperation”.

Sounds a bit like the old EEC to me.
The other key text that’s long been
knocking around is the Economic Partner-
ship, Political Coordination and Cooperation
Agreement between the EU and Mexico.
Few people have actually dug into it. It’s
quite a fascinating read.

It exists to “institutionalise political dia-
logue, strengthen commercial and economic
relations by means of the liberalisation of
trade in conformity with the rules of the
WTO and shall reinforce and broaden
cooperation.”

It covers trade in goods, in services, and
in capital. It opens up public procurement
and competition. It covers copyright,
industrial cooperation, the promotion of
investment and financial services; it deals
with SMEs and permits a mechanism for
mutual recognition of trading standards; it
permits cooperation in IT, agriculture, the
environment, and plant health; it allows
joint actions in mining, energy, transport
tourism; it authorises teamwork in
defending refugees, and consumer protection.

But there is a marked difference with the
treaties we have signed up to. Mexico
keeps her veto; she keeps control of her finances;
and she keeps control of her democracy.

It is an international treaty between
separate, independent states: the EU
counting, sadly, as one of them. Mexico can
leave it at any time – there is just a six-
month denunciation pause at the end that is
common to such agreements.

Of course, your average Euro-lackey
would leap out of his armchair and cry, “Do
you want to be like Mexico? I mean, really! Do
you?”

There is something to be said for tequila,
the niñas, the sunshine, and the hats. But the
real point is this: at some point during the
UK referendum, some buffoon in the ‘Yes’
camp will pop up on screen and say, “But
you just have to accept the Constitution.
There is no alternative on offer, never has
been, never will be.”

And that’s just where he’d be wrong.

Dr Lee Rotherham runs Skeptika, a con-
sultancy on EU affairs. He may be reached at
skeptika@hotmail.co.uk.
MISSION STATEMENT: The aims and objectives listed below are summed up in The Foundation’s overall policy of ‘yes to European trade, no to European government’. We believe that greater democracy can only be achieved among the various peoples of Europe by the fundamental renegotiation of the treaties of Maastricht, Amsterdam and Nice. The Foundation does not advocate withdrawal from the European Union, rather its thoroughgoing reform.

Objectives

- To further prosperity and democracy in Europe;
- To renegotiate the treaties of Maastricht, Amsterdam and Nice and prevent the ratification of the European Constitution;
- To reform and scale down the acquis communautaire;
- To ensure that future member states get a fair deal from EC/EU membership;
- To halt the continuing arrogation of power by the EC/EU;
- To prevent the UK from adopting the euro;
- To contribute as actively as possible to an informed public debate about the future of Europe;
- To liaise with like-minded organisations all over the world;
- To liaise with organisations affected by EC/EU action and policy.

Activities

- Addresses itself to the general public and to politicians, journalists, academics, students, economists, lawyers, businessmen, trade associations and the City;
- Organises meetings and conferences in the UK and in mainland Europe;
- Publishes newsletters, periodicals and other material and participates in radio and television broadcasts;
- Produces policy papers, pamphlets and briefs;
- Monitors EU developments and the evolution of public opinion and its impact on the political process in the EU.

The Foundation’s History: The Great College Street Group was formed in October 1992 in order to oppose the Maastricht Treaty. The Group, consisting of politicians, academics, businessmen, lawyers, and economists, provided comprehensive briefs in the campaign to win the arguments both in Parliament and in the country. The European Foundation was created by Bill Cash after the Maastricht debates. It exists to conduct a vigorous campaign in the UK and across Europe to reform the EC/EU into a community of free-trading, sovereign states. The Foundation continues to establish links with like-minded organisations across Europe and the world.

Subscription Rates & Donations

UK: Minimum £30; UK Senior Citizens & Students: £20.00; Europe excl. UK: £34; Rest of World: £38

Donations and subscriptions should be made payable to “The European Foundation”.

I enclose my annual subscription of £ _____ (minimum £30, Senior Citizens & Students £20.00) plus postage: UK nil, Europe £4, Outside Europe £8 made payable to “The European Foundation”.

Name (in capitals): ___________________________ Title: ___________________________
Address (in capitals): ___________________________

__________________________ Postcode: __________________________
Tel: ______________________ Fax: ______________________ e-mail: ______________________

Please enclose your cheque made out to “The European Foundation” and return this form to: Subscriptions, The European Foundation, 7 Southwick Mews, London W2 1JG
Tel: 020 7706 7240 Fax: 020 7168 8655 E-mail: euro.foundation@e-f.org.uk Web: www.europeanfoundation.org